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BOARD MEETING

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STATE OF CALIFORNIA

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INTEGRATED WASTE MANAGEMENT BOARD

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CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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BOARD ROOM

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1001 I STREET, 2ND FLOOR

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SACRAMENTO, CALIFORNIA

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TUESDAY, FEBRUARY 20, 2001

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9:30 A.M.

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25 BALINDA DUNLAP, CSR NO. 10710, RPR, CRR

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 APPEARANCES

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3 BOARD MEMBERS

4

5 Linda Moulton-Patterson, Chairperson

6 Dan Eaton

7 Steven R. Jones

8 Jose Medina

9 Michael Paparian

10 David A. Roberti

11

12

13

14 STAFF

15

16 Bonnie Bruce

Karin Fish

17 Kathryn Tobias

Julie Nauman

18 Lynda Williams

Mark Leary

19 Tom Micka

Patty Wohl

20 Michael Bledsoe

Jim LaTanner

21 Bob Holmes

Jeff Watson

22 Bill Marciniak

Gabe Aboushanab

23 Sharon Anderson

Dmitri Smith

24 Mark DeBie

25

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1 SACRAMENTO, CALIFORNIA, FEBRUARY 20, 2001

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3 CHAIRPERSON MOULTON-PATTERSON: This seems so
4 formal, but I'd like to welcome you to our February
5 meeting. And would the secretary please call the roll.

6 SECRETARY FARRELL: Eaton?

7 BOARD MEMBER EATON: Here.

8 SECRETARY FARRELL: Jones?

9 BOARD MEMBER JONES: Here.

10 SECRETARY FARRELL: Medina?

11 BOARD MEMBER MEDINA: Here.

12 SECRETARY FARRELL: Paparian?

13 BOARD MEMBER PAPARIAN: Here.

14 SECRETARY FARRELL: Roberti? Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Here. Okay. We
16 have a forum. As I said, welcome. We are really lucky. We
17 are the first ones that get to use our brand-new hearing
18 room, although I must say I feel very far away from the
19 office, but it is nice to have you here. I guess for big
20 crowds we'll really appreciate it.

21 I'd like to begin the Board meeting with a few
22 comments about California's recent energy challenge. The
23 Governor's asked all of us whenever we speak publicly to
24 mention how serious the energy crisis is. We are faced with
25 time, and we must all pitch in to reduce consumption and

1 improve our energy efficiency.

2 As you know, California continues to experience
3 electrical shortages and rolling blackouts. The Governor
4 and leaders of the California legislature are working with
5 utilities, energy generators and consumer groups to forge a
6 long-term solution to this problem.

7 In the short run California's consumers and
8 businesses must all work together to reduce electricity
9 usage and use energy more efficiently. At the Waste Board
10 we have implemented a plan to reduce consumption by a
11 minimum of 8 percent. During critical power shortages the
12 State is preparing to conserve 20 percent. The Governor has
13 also asked all Californians to reduce their electricity use
14 by 7 percent.

15 By implementing energy savings measures at home
16 and at work we can help avoid shortages, lower energy bills
17 and have a major impact locally and throughout the state.
18 Therefore, we are asking all of you to flex your power. To
19 promote this message, we placed the flex your power graphic
20 at the front of the auditorium as a reminder of our pledge
21 to conserve energy.

22 Given our commitment to conserve energy and reduce
23 waste, we are also providing a limited number of copies of
24 the agenda items. These are located at the back of the
25 room. We would like to ask you to share these copies with

1 your neighbor for this meeting.

2 We unfortunately do not have video projection
3 capabilities yet since the auditorium is not quite
4 finished. We apologize for this inconvenience, but remember
5 the energy crisis is real. And having said that, we'll
6 begin our meeting.

7 We'll begin by asking for ex partes. Mr. Eaton?

8 BOARD MEMBER EATON: I am up to date, I believe.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

10 BOARD MEMBER JONES: To add an e-mail from Karen
11 Jarill [phonetic] on the putrescible issue, and a fax from
12 John Richardson regarding the Community Recycling.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

14 BOARD MEMBER MEDINA: Nothing.

15 BOARD MEMBER PAPARIAN: Two things. I also have
16 that fax from John Richardson regarding Community Recycling
17 regarding Board agenda item No. 6, and also a brief
18 discussion with Justin Malan.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you. And I
20 have no ex partes for the record. I neglected to mention
21 that we do have -- if you would like to speak, there are
22 speaker request forms -- do we have a back table? At the
23 back table.

24 If you wish to address any item on the agenda,
25 please fill out a slip with a specific item or items you

1 plan on addressing and give it to Ms. Farrell, who is right
2 over here. And she'll make sure they let me know so we can
3 hear you speak.

4 Any oral reports, Mr. Eaton?

5 BOARD MEMBER EATON: Nothing.

6 BOARD MEMBER JONES: No, Madam Chair.

7 BOARD MEMBER MEDINA: Two to report. February 7,
8 the night I attended the R and D workshop in San Francisco,
9 and February the 15th I made a site visit and also met with
10 the commerce task force headed by Mr. Mike Mehaji.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

12 BOARD MEMBER PAPARIAN: Yeah, one of the things we
13 did in the last month -- as you know, I have been very
14 interested in the electronics. Mark Kennedy from my staff
15 and Peggy Harris from the Department of Toxic Substances
16 Control as well as a number of other local officials from
17 San Diego and Los Angeles and San Jose and Alameda County
18 and a number of other locations in California attended a
19 meeting up in Portland on the issue of product stewardship.

20 We met with representatives of other states and
21 localities in the western region. And there was some pretty
22 exciting development there, I think. There's a potential
23 for a number of the states and localities to get together to
24 enter into some discussions with the electronics industry
25 about the issues of product stewardship.

1 At the same time the Waste Board has been engaged
2 in a number of things, which I am very pleased with. The
3 electronic waste website is supposed to be coming up pretty
4 soon. I know that Terry Cronan's been working on that. The
5 Cal Max program's been listing quite a few items, including
6 a number of articles about electronics waste, and Jeff
7 Hunt's section has been working on that. I wanted to thank
8 you, both of them.

9 The Board is also cosponsoring on March 22nd an
10 infrastructure for electronic waste conference down in Santa
11 Clara, and it is an April conference on design for the
12 environment with a pyramid in the electronics sector.

13 Then the last thing I wanted to mention was that
14 we have been working with the Department of Toxic Substances
15 Control to help improve some of the regulatory clarity
16 regarding electronics waste and some of the definitions and
17 regulatory factors involved in the electronics waste.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank
19 you for all your work on that issue. We appreciate it.

20 BOARD MEMBER PAPARIAN: I am going to pass out an
21 article which I thought was quite a good one from Time
22 Magazine a few days ago. I have enough here for the Board
23 and a few extras.

24 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti,
25 do you have any ex partes?

1 BOARD MEMBER PAPARIAN: I have one ex parte which
2 is not mentioned yet, that is the John Richardson fax, vice
3 president of the Community Recycling regarding Board agenda
4 item 5 -- excuse me. Board agenda item 6.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you. Do you
6 wish to make a brief comment?

7 BOARD MEMBER ROBERTI: Just very briefly. In the
8 last couple of months I have made a number of site visits to
9 facilities at various stakeholders. One of the more
10 interesting was going to the City of Irwindale to see what
11 they have done with the landfill and a very large number of
12 good ideas.

13 Not everybody can build a stock car track, but
14 they have done a number of things that are very exciting and
15 progressive. I visited a computer electronics recovery
16 program at the City of Thousand Oaks, and I hope that many
17 of these recovery program fairs is really what they are, be
18 duplicated by other cities as well. This week I went to the
19 Grand Central Transfer Station to look at their proposed
20 recycling center which is on our agenda.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you. I also
22 attended the RNDC workshop in San Francisco, found it very
23 informative. Also attended the Diamond Bar, the 2202
24 workshop, and then on February 15 we had a strategic plan
25 stakeholder meeting.

1 I want to thank all of you who participated. It
2 was very, very good, and I learned a great deal. At this
3 time I would like Ms. Bruce to give her oral report.

4 INTERIM DIRECTOR BRUCE: Thank you very much. In
5 her opening remarks the Chair included some perspective on
6 California's energy challenge. I would like to add some
7 details about what our staff has been doing to disseminate
8 the energy conservation message.

9 And so to begin with, many of you have probably
10 already noticed that there's a message from the Chair that's
11 been added to our website home page, and it includes tips
12 for consumers and businesses and schools to reduce the
13 demand and lower their energy bills.

14 I have also asked everyone at the Board to tag all
15 of their e-mail to external parties with an energy
16 conservation note, and we modified the templates for our
17 printed line letterhead to include the same message.

18 We are also adding a conservation message to all
19 exhibits and public speeches. And we would ask that if you
20 have any questions or if you are doing public speaking and
21 you need some additional information for this, if you would
22 contact either myself or our PIO office.

23 I am very excited to be able to announce today a
24 new modular furniture contract. The Department's
25 environmental specification for modular office furniture

1 creates a new and international standard. And earlier this
2 month the Department of General Services awarded the new
3 modular furniture contract to All Steel, and this is
4 culminating a year's worth of effort on our staff, and I can
5 assure you they have been working very, very hard on this
6 and were very excited.

7 Furniture produced under this contract will meet a
8 rigorous environmental specification. These will improve
9 indoor air quality, task lighting and the use of recycling
10 content materials.

11 As a result of this new contract, you are going to
12 see 20 percent more energy efficient than the ones produced
13 under the previous contract, 50 percent more recycled
14 content material, including fabrics, aluminum and other
15 materials. We have been told they will also produce 40
16 percent less emissions and provide up to \$20 million in
17 annual reportable recycled product purchases under the State
18 agency recycling program. This represents 12 percent of the
19 total RCP purchases reported in the last fiscal year.

20 This also, then, can be far-reaching because it
21 could include the prison industry authority. Because they,
22 too, have expressed a desire to have their new lines of
23 modular furniture products comply with the environmental
24 specification. And with this ability they now -- they have
25 the ability to look at about a \$30 million contract in

1 modular furniture products. So this is something that we
2 are really looking forward to and hoping will happen.

3 I'd also like to announce to you that we received
4 word, and we want to thank the Chair for writing a letter in
5 support, that the Los Angeles Unified School District
6 unanimously support their proposal on sustainable building
7 resolution. We believe this is a first. We were very
8 excited that that happened. It just happened in the last
9 couple of weeks.

10 On another note, we now have an on-line permit
11 toolbox. This is a project that we have been working on for
12 some time. Some of you may be aware of what has long been
13 called the permit desk manual. It is a tool that the Board
14 developed several years ago to assist local enforcement
15 agencies in their permanent development activities.

16 Earlier this month the first part of a new on-line
17 permit toolbox, a web-based version of the old desk manual,
18 was released to the LEAs for their review and comment. This
19 project is a joint effort between our Permitting and
20 Enforcement Divisions and Web Services Unit, and the plan is
21 to roll out the entire toolbox in phases over the next
22 months and then to work very closely with our LEAs to be
23 certain that the final on-line products meet their needs. I
24 think this is something you'll like.

25 I would also like to give you an update on our

1 compliance jurisdiction. This is an update, and it is a
2 verbal update on agenda item No. 21. Our last update was in
3 September of last year. I just thought I would let you know
4 what's happened since then.

5 Since last September 11 jurisdictions have been
6 removed from compliance. This includes the cities of Biggs,
7 Paradise, Montebello, Walnut, Colfax, Atherton, East Palo
8 Alto, Athorn, Capitola, Hillsborough and the Kings Waste and
9 Recycling Authority.

10 Two jurisdictions, the City of La Habra Heights
11 and Yuba-Sutter Regional Waste Management Authorities sought
12 extensions of final due dates, and these requests were
13 approved. This month two jurisdictions, the City of
14 Gardenia and Lassen Regional Solid Waste Management
15 Authority, are requesting extensions to March 2 and July 31,
16 respectively, and staff is recommending approval of these
17 requests.

18 With Board approval, staff is also requesting that
19 the City of Martinez, Contra Costa County, be taken off of
20 compliance. And if the Board approves the completion of the
21 compliance order for the City of Martinez, 35 jurisdictions
22 will remain on compliance.

23 I believe the table you have been given gives you
24 the detail information for each compliance jurisdiction,
25 including the method each one selected to complete the

1 compliance order, the final report, due date and the
2 jurisdiction's current status. If you have questions we
3 would be happy to answer any of those. Again, welcome you
4 to our new Board room. Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you,
6 Ms. Bruce. As far as the agenda goes, I do want to say that
7 I have committed to hear agenda item 11 tomorrow at 9:30.

8 Also, we will probably hear all of the special
9 waste items at that time. Also, today we will be having a
10 closed session at approximately 2:00 p.m. after our lunch
11 break, and that brings us to our continued business agenda
12 items. Item No. 1, we will hear from Mr. Leary.

13 MR. LEARY: Good morning, Madam Chair. My name is
14 Mark Leary, deputy director of the Special Waste Division.

15 CHAIRPERSON MOULTON-PATTERSON: I understand we
16 have to get pretty close to these mics to hear; is that
17 correct?

18 MR. LEARY: We are here on item No. 1,
19 consideration of adoption of the negative declaration and
20 consideration of a new major waste tire facility will be
21 presented by Tom Micka, special division.

22 MR. MICKA: Madam Chair and Board members, item
23 No. 1 regards consideration of adoption of the negative
24 declaration of a new major waste tire facility permit for
25 Rubber Technology International, or RTI, located at 315 East

1 Washington Boulevard, Los Angeles, in the county of Los
2 Angeles.

3 RTI was issued a minor waste tire facility permit
4 on April 30th, 1999. The storage of up to 4,999 waste tires
5 for the company. Board staff received a major waste tire
6 facility permit application from RTI on April 20th, 2000.
7 The application is for the increase of the facility acreage
8 from --

9 CHAIRPERSON MOULTON-PATTERSON: Excuse me. I am
10 sorry. Can you hear in the back? Because we can't hear
11 very well up here.

12 MR. MICKA: The application is for the increase of
13 the facility acreage from 2 to 2.7 acres and a capacity
14 increase from 4,999 waste tires to 300 tons, which is
15 approximately 30,000 passenger tire equivalent. The project
16 consists of the storage, shredding and crumming of waste
17 tires and the operation of a molding process.

18 The proposed project is located in an area zoned
19 for heavy manufacturing, so local approvals did not trigger
20 an environmental review for this project.

21 However, the approval and issuance of a waste tire
22 facility permit by this Board is a discretionary action and
23 is considered a project under the California Environmental
24 Quality Act. Therefore, the Board has assumed the lead role
25 agency and has prepared an environmental document for the

1 proposed project.

2 In accordance with CEQA guidelines, staff
3 evaluated the project proposal through an initial study and
4 determined that the preparation of a negative declaration
5 was the appropriate environmental document for the proposed
6 project as described in the permit application.

7 The negative declaration as prepared by CIWNB
8 analyzed the proposed project for any significant
9 environmental impacts. The document was circulated through
10 the State clearing house for agency review and comment.
11 Public notice of the negative declaration was placed in the
12 Los Angeles daily news, and the period to submit comments
13 closed on January 11, 2000.

14 One comment was received during the public review
15 period. The Department of Caltrans wanted to assess a fee
16 if a transportation study had been performed.

17 Before the major waste tire permit can be issued,
18 the Board must consider and adopt the negative declaration.
19 A copy of the negative declaration is included in this item
20 as attachment No. 2. The negative declaration stipulates that
21 approval of the permit would have less than significant
22 impact on the environment and surrounding population and
23 services, or its staff had determined that all other state
24 and local requirements for this proposed permit have been
25 met, the project design and operation is consistent with the

1 State minimum standards.

2 I would like to comment that this item was carried
3 over from the January agenda because RTI was not in
4 compliance with their minor waste tire facility permit at
5 that time. RTI was storing between 150,000 to 180,000 tire
6 equivalents. I am pleased to report that RTI is now below
7 4,999 waste tire equivalents and is in compliance with their
8 minor waste tire facility permit.

9 I would like to make one correction in the agenda
10 item, a reference to the LA County general plan is made on
11 page 4 of the agenda item. This should be LA City general
12 plan.

13 In conclusion, staff recommends that the Board
14 adopt negative declaration decision No. 2001-24, in paren,
15 decision No. 2001-25, approving the issuance of major waste
16 tire facility permit No. 19-TI-0681. Mr. Trevor Webb of RTI
17 is present to answer questions the Board may have. This
18 concludes staff's presentation.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.
20 Senator Roberti?

21 BOARD MEMBER ROBERTI: From my notes I note that
22 the corporation company was in violation of their old
23 permit. What's the status of that?

24 MR. MICKA: There's a -- my understanding is
25 there's a stipulated agreement for this. RTI has been fined

1 and asked to make payments over the next 12 months for being
2 in violation of their minor waste tire facility permit.

3 BOARD MEMBER ROBERTI: That's less than 5,000
4 tires?

5 MR. MICKA: Correct.

6 BOARD MEMBER ROBERTI: Are they currently below
7 5,000 tires?

8 MR. MICKA: Yes, they are.

9 BOARD MEMBER ROBERTI: And they are in compliance
10 now with the minor tire permit?

11 MR. MICKA: Correct.

12 BOARD MEMBER ROBERTI: And they are in compliance
13 as far as the stipulated agreement is concerned? That is,
14 they are making the payments regularly?

15 MR. MICKA: I don't know whether the payments --
16 at what time the payments are supposed to be made. Maybe
17 legal can answer that question.

18 BOARD MEMBER ROBERTI: Can legal help us with
19 that?

20 MR. LEARY: As Mr. Micka pointed out, because of
21 violations in the past by RTI, we had negotiated a
22 stipulated agreement which we cannot consummate until the
23 facility is in compliance with the minor waste tire facility
24 permit. Now that they are, we will consummate the
25 agreement, and RTI will be obligated by that agreement to

1 make the payments that Mr. Micka has specified.

2 BOARD MEMBER ROBERTI: They haven't made any
3 payment to date?

4 MR. LEARY: Not yet because the agreement hasn't
5 been signed.

6 BOARD MEMBER ROBERTI: How long have they been
7 less than 5,000 tires?

8 MR. LEARY: As Mr. Micka pointed out at the last
9 Board meeting, they were not. We met with them after the
10 Board meeting and instructed them that if the Board is to
11 move forward on this, per compliance, they must be in
12 compliance with the minor tire facility permit.

13 They asserted that effort over the last month.
14 And as of yesterday when the Special Waste Division staff
15 were inspecting the facility, they were below the 5,000.
16 They were about 4,900 waste tire equivalents.

17 BOARD MEMBER ROBERTI: I noted that one of the
18 requirements for the current -- for the permit currently
19 being asked is for an annual inspection. Is that our normal
20 inspection rate for these kinds of permits, and is that
21 prudent if we're dealing with a company that has had a
22 history of violation? Maybe the inspections should be more
23 frequent.

24 MR. LEARY: I think it is pretty much boilerplate
25 for these permits. I appreciate your comment greatly. It

1 is our intention, because of the past history, to inspect
2 more frequently. That annual inspection in our permits is
3 boilerplate. Generally for major tire facilities we inspect
4 more frequently.

5 BOARD MEMBER ROBERTI: That's the minimum?

6 MR. LEARY: Yes.

7 BOARD MEMBER ROBERTI: Okay. Thank you.

8 CHAIRPERSON MOULTON-PATTERSON: I just want to add
9 now, one time they had 180,000 tire?

10 MR. LEARY: Equivalents, that's right.

11 CHAIRPERSON MOULTON-PATTERSON: I would certainly
12 like something in there that says you would be inspecting
13 them quarterly. Could that be done?

14 MR. LEARY: Certainly.

15 BOARD MEMBER MEDINA: I have a question. And
16 that's even though this is located in an area that is
17 consistent with M-31 zoning, which is a heavy manufacturing
18 zone, do you know if there are any residential housing
19 located in the vicinity of this manufacturing zone?

20 MR. MICKA: I have been to the site before, and I
21 don't recall any housing surrounding the site. I don't know
22 how many blocks you would have to travel from the site
23 before there might be some housing.

24 MR. LEARY: Mr. Trevor Webb, the operator of the
25 site, is here. Maybe he would be better prepared to answer

1 that question.

2 BOARD MEMBER MEDINA: Yes, I would like to know
3 approximately where is the residential housing to this zone
4 and the location of this facility.

5 MR. WEBB: We are in an industrial zone, and I
6 think the closest housing is probably half a mile, and that
7 would be in East LA. We are near the City of Vernon, which
8 I think has 20 residents. We are across the street from
9 Vernon. So we are in a very industrial area.

10 BOARD MEMBER MEDINA: Do you know what fire
11 prevention measures have been taken in regards to this
12 project in the increase in the number of tire storage?

13 MR. WEBB: We have in the plan -- for the tire
14 piles we have the proper fire lanes surrounding the storage
15 areas. It is an open lot, a paved open lot area.

16 BOARD MEMBER MEDINA: And from the public notices
17 that were posted, there was no response from the nearest
18 residents in proximity to this?

19 MR. WEBB: No, no. Like I said, it could be a
20 half mile, probably about a half mile to the nearest
21 residence. Nothing visible in the area.

22 BOARD MEMBER MEDINA: Thank you.

23 BOARD MEMBER ROBERTI: Are you in the City of LA?

24 MR. WEBB: City of Los Angeles, yes.

25 BOARD MEMBER ROBERTI: What's your nearest

1 north-south?

2 MR. WEBB: Soda.

3 CHAIRPERSON MOULTON-PATTERSON: I have something
4 here from our staff, attachment two. It says residents
5 approximately 1800 feet from the RTI facility. Isn't that a
6 lot closer than a half mile? Attachment to the backside.

7 MR. WEBB: That can't be correct.

8 CHAIRPERSON MOULTON-PATTERSON: Is that
9 incorrect?

10 MR. WEBB: That's incorrect.

11 CHAIRPERSON MOULTON-PATTERSON: They said at the
12 corner of Olympic Boulevard and Grandier Vista. That's not
13 a residence?

14 MR. WEBB: Yeah, but that's at least three blocks.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 BOARD MEMBER PAPARIAN: I guess this is probably
17 for our staff. There were -- you said somewhere in the
18 neighborhood of 180,000 tire equivalents, and now we are
19 down to below 5,000. Are we confident that those were all
20 manifested, taken somewhere properly, properly disposed of
21 and where did they go?

22 MR. LEARY: What most likely has happened is RTI
23 -- my understanding is RTI is a crumb rubber manufacturer,
24 or crumb manufacturing, and what -- the great quantity of
25 waste tire equivalents were actually shreds on site, that as

1 you know the current regulations exempt from regulation
2 waste tire shreds more than one-inch minus.

3 And the 180,000 waste tire equivalents were
4 largely shreds that were right around the one-inch size,
5 one-inch to three-inch size that accumulated and hadn't been
6 able to process further to go below the one-inch minus for
7 their ultimate use as a product. Quarter-inch minus.
8 Excuse me. It is not one-inch minus. It is quarter-inch
9 minus. They were about one-inch minus on the average and
10 now have completed the further processing. As far as the
11 details of how that further processing occurred, I have to
12 refer to Mr. Webb.

13 MR. WEBB: Yes, we have been processing. At the
14 time when we had -- when we were out of compliance and we
15 had a lot of shred and we had some confusion as to the size
16 that was exempt, we had what we considered quarter-inch
17 nominal, which has larger pieces in it. Since then we got a
18 rasper which reduces the size of the chip, of the crumb to
19 smaller. And we have three cracker mills, and we produce
20 crumb rubber, and we have just been processing and selling
21 the crumb rubber.

22 BOARD MEMBER PAPARIAN: So is the -- once it gets
23 down to a small enough size, it is out of our regulatory
24 jurisdiction. Has that smaller size stuff left the site
25 with you?

1 MR. WEBB: Yeah, the vast majority of it. We have
2 small stockpiles. We use it for feedstock for the cracker
3 mills which reduces it further to ten mesh and 16 mesh crumb
4 rubber, which is like powder.

5 BOARD MEMBER PAPARIAN: Mr. Leary, just out of
6 curiosity, if it -- if there's a lot of material that falls
7 below our jurisdiction, who then takes responsibility for
8 inspection?

9 MR. LEARY: To the extent it is still stored on
10 the site, I think it falls under the purview of -- under the
11 purview of the local fire marshal to regulate a potential
12 fire hazard as a material that is combustible. Our
13 regulatory authority goes away once it gets below the
14 quarter-inch minus.

15 CHAIRPERSON MOULTON-PATTERSON: Any questions,
16 comments? Mr. Eaton?

17 BOARD MEMBER EATON: Where does the money go,
18 which account, for the fine? Is that going to go into the
19 tire account that will benefit cleanup? Where does it
20 normally go?

21 MS. WILLIAMS: All penalties collected, pursuant
22 to enforcement under Chapter 16, go straight to the tire
23 recycling management fund. Lynda Williams, staff counsel.

24 BOARD MEMBER EATON: What was the reasoning for
25 not consummating the stipulated agreement with regard to the

1 violation of the agreement for the permit of this
2 proportion? What guarantees do we have that there's some
3 terms within that agreement that they will agree to so we
4 are not getting caught in a position where they are in
5 compliance of a major tire permit and yet we still have some
6 outstanding violations?

7 Why wouldn't we logically solve the first permit,
8 get that all wrapped up and then permit to the major tire
9 permits? It just seems logical, but maybe there's some
10 reason. It seems odd that we wouldn't consummate the fine
11 and the particular terms of the stipulated agreement prior
12 to bringing forward a major tire agreement, given the past
13 history will we proceed with enforcement procedures in
14 permitting independently because there's no specific
15 connection between those activities within the Code?

16 From the perspective of an enforcement action, it
17 is not our policy to settle cases unless the Respondent is
18 in compliance with the cleanup and abatement order that's
19 the basis for the enforcement action in the first place.

20 We went to a hearing, and we're prepared to go
21 forth, at which time RTI just conceded to all the facts and
22 we have been proceeding on developing the enforcement
23 actions that will be a part of that entire agreement since
24 that point in time. And that includes we will not proceed
25 with a settlement agreement without going to further fines

1 until you are in compliance.

2 CHAIRPERSON MOULTON-PATTERSON: Any others
3 questions?

4 BOARD MEMBER MEDINA: One final question that has
5 to do with the metal that's extracted from the crumb
6 rubber. Do we know where that metal will be taken, or how
7 it will be disposed?

8 MR. WEBB: Unfortunately it has to be landfilled.
9 We had a deal with Tamco Steel to recycle it, but they
10 stopped until next month, they can start receiving it
11 again. In the meantime I just have to landfill it.

12 BOARD MEMBER MEDINA: Do you know the amount that
13 will result from the tire shredding?

14 MR. WEBB: It is roughly, I believe, six pounds
15 per tire.

16 BOARD MEMBER MEDINA: Sounds like a lot of metal
17 to be landfilled.

18 MR. WEBB: Yeah, it is. Unfortunately I wish we
19 had a way to recycle it.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.
21 Hopefully you can look into some other options to see what
22 we can do.

23 MR. WEBB: We are. And Tamco Steel, which is in
24 Southern California, they are receptive to recycling it, but
25 for some reason they just haven't been taking it into our

1 batches until next month. I think they were rebuilding the
2 plant.

3 CHAIRPERSON MOULTON-PATTERSON: So you have some
4 sort of an assurance that next month you are working with
5 them?

6 MR. WEBB: Yeah, yes.

7 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

8 BOARD MEMBER JONES: Just a quick question. Six
9 pounds is per truck tire?

10 MR. WEBB: Is it?

11 BOARD MEMBER JONES: I am asking.

12 MR. WEBB: Oh, no, per passenger tire.

13 BOARD MEMBER JONES: Madam Chair, I will move
14 adoption of resolution 2001-24, consideration of adoption of
15 a negative declaration consideration of major waste tire
16 facility program for RTI.

17 BOARD MEMBER EATON: I'll second it.

18 CHAIRPERSON MOULTON-PATTERSON: We have a motion
19 by Mr. Jones, second by Mr. Eaton to approve resolution
20 2001-24. Please call the roll.

21 SECRETARY FARRELL: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY FARRELL: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY FARRELL: Medina?

1 BOARD MEMBER MEDINA: I'll vote aye on it,
2 although I would want to make certain that adequate notice
3 is given to any area where you have residences in close
4 proximity.

5 SECRETARY FARRELL: Paparian?

6 BOARD MEMBER PAPARIAN: I am voting aye, but with
7 the assurances from Mr. Leary that they'll step up the
8 inspections over the coming year or two just to be sure that
9 this facility remains in compliance.

10 SECRETARY FARRELL: Roberti?

11 BOARD MEMBER ROBERTI: As well I'll vote aye with
12 the understanding that staff is going to have an inspection.

13 SECRETARY FARRELL: Moulton-Patterson?

14 CHAIRPERSON MOULTON-PATTERSON: Aye.

15 BOARD MEMBER JONES: I would like to move adoption
16 of resolution 2001-25, which is the permit for the RTI
17 facility.

18 BOARD MEMBER EATON: Second.

19 CHAIRPERSON MOULTON-PATTERSON: Motion by
20 Mr. Jones, second by Mr. Eaton. Resolution 2001-25 for the
21 permit. Please call the roll.

22 SECRETARY FARRELL: Eaton?

23 BOARD MEMBER EATON: Aye.

24 SECRETARY FARRELL: Jones?

25 BOARD MEMBER JONES: Aye.

1 SECRETARY FARRELL: Medina?

2 BOARD MEMBER MEDINA: Aye.

3 SECRETARY FARRELL: Paparian?

4 BOARD MEMBER PAPARIAN: Aye.

5 SECRETARY FARRELL: Roberti?

6 BOARD MEMBER ROBERTI: Aye.

7 SECRETARY FARRELL: Moulton-Patterson?

8 CHAIRPERSON MOULTON-PATTERSON: Aye. Thank you.

9 Continued item No. 23, consideration of approval
10 of concept to sell loans from the recycling market
11 development revolving loan program.

12 Ms. Wohl?

13 MS. WOHL: Patty Wohl, Waste Prevention and Market
14 Development Division. We'll be presenting items 2, 3 and
15 4. The briefing I have provided an overview of the history
16 of the loan program in regards to funding. Items 2, 3 and 4
17 are all short-term recommendations from the designated loan
18 working group, comprised of Board members, Board staff and
19 zone administrators.

20 Action today on item 2 and 3 does not commit the
21 Board to an eventual sale. These items have been brought
22 forward to the Board to seek approval to further investigate
23 these concepts and approve the funding of a financial
24 consultant to assist the Board in determining viable
25 options. These three items were continued from last month

1 to allow staff the opportunity to review the legality of the
2 loan sale. Michael Bledsoe is prepared to present in
3 regards to this issue.

4 MR. BLEDSOE: Michael Bledsoe from the legal
5 office. At the January Board meeting the question was
6 raised as to whether it was legal for the Board to sell RMDZ
7 loans on the secondary market. The simple question is
8 whether the Board has the authority to take such an action.

9 This issue arises because Section 42023.A of the
10 Public Resources Code provides that amounts transferred from
11 the Integrated Waste Management account to the RMDZ
12 subaccount are a loan from the IWMA account, which must be
13 repaid to the IWMA account with interest at the Smith rates
14 that's set by the State.

15 By implication, that statute could be construed to
16 prevent a loan sale because if the loans are sold, they are
17 sold at a discount, meaning that the total amount of
18 principal on those loans is reduced so the RMDZ subaccount
19 would not have the full amount of its original loan to repay
20 to the IWMA account.

21 The legal office researched the legislative
22 history of this statute and is concluded that the Board does
23 have the authority to sell RMDZ loans on a secondary
24 market. Public Resources Code 40506.1A expressly authorizes
25 the Board to sell loans. That section modifies the effect

1 of the older statute 42023.A because it was adopted later
2 than that second statute.

3 The statute authorizing the Board to sell the
4 loans, Section 40506.1A, was adopted in 1993. Section
5 42023.A, which provides that funds in the RMDZ subaccount
6 are a loan from the Integrated Waste Management account was
7 adopted in 1990. Under standard principals of statutory
8 construction the later enacted statute is deemed to be
9 intended to replace or modify the earlier enacted statute.

10 The Board's authority here, however, is not
11 unlimited. Section 40506.1B provides that the Board may
12 sell the loans at not greater than a 25-percent discount,
13 exclusive of expenses or reserves required as a condition of
14 the sale. So the Board basically has to get a fair price.
15 The Legislature has set 75 percent of the principal balance
16 as a, quote, fair price, or as a minimal fair price for the
17 loan sale.

18 Likewise, the proceeds from the loan sale must be
19 deposited into the RMDZ subaccount and used for RMDZ loans.
20 That's Section 40506.1A. The RMDZ program terminates on
21 July 1, 2006. Any funds remaining in the RMDZ subaccount on
22 that date are transferred to the IWMA, Section 42023.A.

23 Any monies outstanding at that time in the form of
24 RMDZ loans are to be repaid into the IWMA account after 7/1
25 2006 with interest as those loans are paid off.

1 So in summary, the Board does have the ability to
2 sell RMDZ loans to generate additional funds for making new
3 RMDZ loans. Whether the Board should sell RMDZ loans is a
4 policy issue for the Board to determine. Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any
6 questions?

7 MS. WOHL: Jim LaTanner will present the item.

8 MR. LaTANNER: Jim LaTanner. Agenda item 2
9 presents just the concept to sell loans. It does not
10 authorize the sale of the loans at this point. We would
11 come back to the Board several times to go forward.

12 The next agenda item, if this is approved, would
13 be to come back with a contract concept for the Board to
14 consider. Then if that's approved, we go out to bid. Bids
15 come back, and we come back for tentative award contract
16 with figures. Then the purchaser does due diligence, and we
17 come back for a final. There are several steps. Does take
18 six to eight to do a loan sale. It is not an immediate
19 sale, but just to get the Board to present if they want to
20 go forward with the concept to sell.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.
22 Mr. Medina?

23 BOARD MEMBER MEDINA: Mr. LaTanner, would
24 provisions be made for loan losses? Will a reserve be set
25 aside? If so, how much and how will that amount be

1 determined?

2 MR. LaTANNER: If we use the original loan sale in
3 '96 as an example, if you turn to page 23-3, there's a
4 chart on the original loan sale.

5 At that sale the discount up front was 9.92
6 percent, but in addition, the purchaser held a loan loss
7 reserve, which was called a preferred purchase price, of
8 13.52. In the case of those loans that were sold, all those
9 paid as agreed and some paid early, therefore, the entire
10 reserve is being paid back to the Board. So the actual
11 discount is only 9.92.

12 Further on there's two examples that I put
13 together, if under that same scenario after one discussion
14 the discount would be a little bit higher, would be about
15 11.47 percent, and then the loss reserve would be 16.78 on a
16 worst-case basis. If all loans defaulted, then the discount
17 is higher than 25 percent as Michael Bledsoe pointed out.

18 BOARD MEMBER MEDINA: You think that's accurate?

19 MR. LaTANNER: It sounds high to me. I think that
20 there's a much better market for secondary loans out there
21 now.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

23 BOARD MEMBER JONES: The first sale -- I don't
24 even know if you guys can hear me, but the first sale of
25 loans that this Board did, that money that went into the

1 treasury was held. What interest will be paid for that
2 money that's sitting there? Why don't we get interest? It
3 doesn't just sit there?

4 MR. LaTANNER: It was deposited into the
5 subaccount, and we earn the Smith rate line.

6 BOARD MEMBER JONES: Not for the loans, the actual
7 sitting there, we were getting 5, whatever the Smith -- we
8 were earning interest?

9 MS. WOHL: So whether we sell the loan or give the
10 loan out or we leave it in the account, we make the same
11 amount of money: Five.

12 BOARD MEMBER JONES: I am saying when we look at
13 this analysis that says so much money was put into reserve
14 for any bad debt, the one piece that's missing is we did not
15 account for the interest that we got while that block of
16 money was sitting there year after year.

17 MR. LaTANNER: The reserve itself is not held by
18 the Board. It is held by the purchaser.

19 BOARD MEMBER JONES: Not the reserve, the dollars
20 we got from the sale.

21 MR. LaTANNER: The original 4 million?

22 BOARD MEMBER JONES: No, the original sale was in
23 '96 was \$6 million, right?

24 MR. LaTANNER: Right, 6 million in principal less
25 the reserve. So 4.6 is what the Board received.

1 BOARD MEMBER JONES: So there was interest on that
2 4.6?

3 MR. LaTANNER: Yes.

4 BOARD MEMBER JONES: That helped repay the loan?

5 CHAIRPERSON MOULTON-PATTERSON: If there were a
6 loan loss we would incur that ourselves. We have to think
7 about that.

8 Any other questions before we have our public
9 speakers section? Steve Lotsey in the Oakland-Berkeley RMDZ
10 and policy chair.

11 MR. LOTSEY: Steve Lotsey from the
12 Oakland-Berkeley Recycling Development Redevelopment Zone.

13 I urge an approval of items 2, 3 and 4. These
14 item are a product of the RMDZ at the September meeting of
15 your Board. That task force met four times over the
16 following three months resulting in these items passing a
17 consensus best next steps.

18 Last week or last month you have heard about the
19 legal analysis which has been absolved and given the Board
20 the ability to proceed on the loan sale, or at least on the
21 exploration of a loansale which is all that this is. We
22 would have to come back. Let's see.

23 I would posit that the loan sale is -- this
24 package of items and the R and D program are popular
25 practical and prudent popular. The RMDZ is really an apple

1 pie program. Everybody loves it, businesses and
2 environmental and local governments, which is a happy thing
3 for your Board. It is practical.

4 Although this doesn't commit you to final action,
5 if you move these items today -- approving the items would
6 send a clear message to zone administrators, local
7 governments, which actually fund the RMDZ in the field and
8 entrepreneurs that the loan business is open for business
9 and no longer on shaky ground as we have been.

10 Finally, of course, the Board already conducted a
11 loan sale in 1996. I am finding it hard to use the
12 microphone and read my notes. This action is prudent. The
13 proposed loan sale withstood the legal analysis acting today
14 rather than later. The importance of its sale will take at
15 least a few months before funds raised could impact the
16 program. And finally with interest rates falling closer to
17 the Smith rate, the discount rate taken on a loan sale is
18 expected to be even lower than at the time this was proposed
19 by the work group.

20 Thank you for your time and consideration.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Mr. Michael Mohajer, LA County Public Works.

23 MR. MOHAJER: Good morning. It is very
24 impressive, but it is not as friendly as the old building.
25 I am Mike Mohajer. I represent LA County and the Waste

1 Management Task Force.

2 This item wasn't on my agenda to speak on, but I
3 was directed by our task force last Thursday. So I have to
4 read some written statement that I have revised somewhat,
5 but it goes like this:

6 As you know, the recycling market development zone
7 program was created to develop -- by the way, I am not here
8 to oppose item 2, 3, 4. We are in support of it, but we do
9 have problems on item 17. The RMDZ program was created, and
10 the local markets recycle materials to help close the loop.
11 The program has been successful from inception, and over the
12 years has helped to create hundreds of jobs across the state
13 and resulted in thousands of tons of new recycling
14 diversions.

15 As we look to the future, there continues to exist
16 a tremendous need for ongoing local market development.
17 Market development needs to be made a priority and increase
18 throughout the state as a variety of materials being
19 collected for recycling today than ever before as quantities
20 are increasing.

21 The Los Angeles County and the greater Waste
22 Management Task Force is concerned as to why the Board was
23 not able to make any funding out of the IWMA available to
24 RMDZ during the current fiscal year, considering that Board
25 is providing grants out of the IWMA accounts, IWM account,

1 the State agency for preparing a waste reduction plan as
2 required by AB 275. We are also concerned with a staff
3 analysis showing no appropriation from the IWMA to fund the
4 new RMDZ to businesses through the fiscal year 2005-2006.

5 In addition, we believe funds previously
6 appropriated for RMDZ programs should be used to further the
7 program. I oppose your staff recommendation as indicated in
8 item 17. This item proposes using previously appropriated
9 but unintended RMDZ funds in part to cover unwanted costs
10 for the office moves and unfunded costs for Cal EPA moves.
11 These are basically under item 17, falls under the concept
12 62 and concept No. 78 for a total transfer of funds in the
13 sum of \$266,000. Thank you.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you. That
15 was it on the speaker's list.

16 Questions? Mr. Paparian?

17 BOARD MEMBER PAPARIAN: I am still not quite
18 comfortable with the concept of selling loans. I think a
19 lot of good work has gone in. I think a lot of good
20 discussion has taken place with the workshops that have
21 taken place, but I am not there. I would prefer -- you
22 know, I wish we had more money available.

23 I would prefer that a little more be done in the
24 area of leveraging with other pots of money that might be
25 available through local government sources, their State

1 government sources, the treasurer's office and possibly
2 elsewhere.

3 I have heard that there was an excellent
4 presentation by someone at the RMDZ conference in San
5 Francisco, Victor Hoskins, I believe his name was, and
6 perhaps it might be worthwhile to bring this person in along
7 with others with similar expertise to help explore whether
8 additional leveraging options might be available and might
9 be worth pursuing.

10 So, again, I am not yet comfortable with pursuing
11 the concept of selling the loans. I am open-minded, but I
12 am not there yet.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you,
14 Mr. Paparian. Any comments?

15 BOARD MEMBER JONES: Just a couple. If we want to
16 have Victor Hoskins come in and give a presentation to this
17 Board, I have no problem with that. Because one of -- in
18 Victor's presentation -- just for the audience that doesn't
19 know, Victor Hoskins worked as the economic development
20 director in the City of Long Beach and now works for a
21 company in Washington D.C. that does an awful lot of
22 leveraging and things like that. He works with a lot of
23 enthusiasm as well as a wealth of knowledge.

24 At his presentation he made it very clear that we
25 have a very, very nice story to tell the world about how

1 successful our program has been. He has been part of the
2 RMDZ workshop and stuff for a long time.

3 The other thing that he did say was that he
4 thought us selling loans was -- made sense because we could
5 take those dollars and leverage them with other agencies,
6 other organizations, private money, to not just go once or
7 twice, but to go three and four times for every dollar that
8 we had.

9 And if it means bringing him in, I think that this
10 agenda item says are we as a Board willing to consider the
11 concept of selling loans. Not that we are going to sell
12 them. Will we consider the ideas conceptually of selling
13 those loans. I think we have got two things to be worried
14 about, in my view.

15 One is we don't want to have a huge pot of money
16 like we did before that could get swept. We had to be
17 prudent. That was one of the reasons we invested in the
18 marketplace for two years, was to get a kick start to some
19 programs that we weren't moving. So we have to be careful
20 about that accumulation of money.

21 The other thing I think we have to be careful
22 about is not to limit our opportunity. I think it is clear
23 when you talk to Victor that he has actually broached the
24 subject about the sale of loans and thinks that there are
25 private people out in the world that because of the nature

1 of these loans and the fact that they help promote markets
2 and help promote new business and new jobs, that there's a
3 lot of private money out there that would like this to be
4 part of their portfolio from the standpoint that it makes
5 sense to them environmentally.

6 I think that if we could sell this loan package at
7 some point, if we get the information and take this \$10
8 million and leverage it into \$40 million worth of loans,
9 then we have answered one of the things that came out loud
10 and clear in our strategic planning workshop last week, and
11 that is markets, markets, markets.

12 And I think that this Board needs to consider the
13 sale. I think we need to do it in a way that we are
14 prudent, that we bring in a Victor Hoskins to talk to this
15 Board and talk about plan, but not limit our options. His
16 job in Washington D.C. is to find strategic partners.
17 That's what he does, is to go out and find other money.

18 So I am going to move adoption of resolution
19 23001-19 for the consideration of the approval of the
20 concept to sell loans from the recycling market development.

21 BOARD MEMBER PAPARIAN: I will second that, Madam
22 Chair.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you very
24 much. And after hearing Mr. Hoskins in San Francisco, I
25 really feel that this is the way to go, and I'll be

1 supporting the motion. Any other comments before we go?

2 Please call the roll.

3 SECRETARY FARRELL: Eaton?

4 BOARD MEMBER EATON: Abstain.

5 SECRETARY FARRELL: Jones?

6 BOARD MEMBER JONES: Aye.

7 SECRETARY FARRELL: Medina?

8 BOARD MEMBER MEDINA: Aye.

9 SECRETARY FARRELL: Paparian?

10 BOARD MEMBER PAPARIAN: Abstain.

11 SECRETARY FARRELL: Roberti?

12 BOARD MEMBER ROBERTI: Aye.

13 SECRETARY FARRELL: Moulton-Patterson?

14 CHAIRPERSON MOULTON-PATTERSON: Aye.

15 Okay. Three and four.

16 MS. WOHL: Sure. Item 3 is really a follow-up of
17 item 2, which is the group, along with staff, who have
18 participated on the loan sell last year, or in '96, feel
19 that it would be necessary to hire a financial consultant to
20 facilitate a loan sale, or to bring the ideas forward, and
21 maybe this person would also participate in some sort of
22 workshop.

23 We have made some modifications to the scope of
24 work based on some input from the Board member, and we'd
25 like to propose that. It allows more opportunity, or it

1 clearly states how that financial consultant would bring
2 those options back to the Board. So it is showing more
3 check points where you would have decision-making.

4 Do you have copies of that available? It was
5 passed out this morning. Jim LaTanner will present the
6 item.

7 MR. LaTANNER: Agenda item 3 takes off from where
8 its last known sale ended, both from the outside legal
9 counsel and staff that did loan sale at the time highly
10 recommend hiring an expert that's good at loan sales.

11 So what item 3 is we have revised the scope of
12 work in more detail. The intent of this is to hire an
13 expert that can come in and help us develop a scope of work
14 as to how best sell the loans, what different methods, what
15 the markets -- what kind of buyers are out there, what's the
16 likely return to the Board on that.

17 One consideration could be a \$15 million loan
18 sale, but you do it in stages. Maybe you do 5 million each
19 year, then you don't have a large pot. There's a greater
20 market out there on the secondary area for loan sales, not
21 just ours, but as a whole, and the Treasurer's office has
22 looked into some of that.

23 But we are looking to hire a financial consultant
24 to come in and tell us all the different methods to do a
25 loan sell and help us. It will come back to the Board for

1 consideration at that point, do they want to continue or
2 not.

3 If the Board does approve the sale, then we could
4 put it out to bid. We get in a whole bunch of proposals.
5 All those proposals will come back to the Board and be a
6 bigger array of proposals. We are expecting a much better
7 return on and a larger number of bids for the loan sale.
8 But this financial consultant we feel is key to taking the
9 next -- to finding out if the loan sale would be feasible
10 and how the plan would best be conducted. All those
11 decisions will come back to the Board.

12 BOARD MEMBER EATON: You're already starting on a
13 loan package, and you keep telling us that you are only
14 talking about concepts here and yet you are going to have
15 this gentleman or this woman prepare packages. I think the
16 issue is whether or not you should even begin to sell.

17 I understand having a financial consultant to help
18 you prepare that issue, but not the issue of bringing the
19 loans forward. It is a preliminary question, what are you
20 going to do and what is the requirement by which to look
21 at? That's what's disturbing to me.

22 I know how this works. This Board eventually will
23 change, and it will come back and these loans will come back
24 and it will say that this Board approved to sell the loans.
25 That's not what I heard today. I heard it is a concept to

1 sell the loans.

2 Now right away I don't have a problem with a
3 financial consultant, but I am not for preparing a package.
4 I would like to understand what is the market out there at
5 the present time. Why doesn't he or she or his company make
6 a presentation as to the environment?

7 The other question is are we not going to now ask
8 for money from the IWMA, are we ceasing to seek transfers
9 per Mr. Mohajer's question?

10 MR. LaTANNER: In response to that, loan chapter
11 prepared the one chart that showed we know there's no
12 transfer this year or next year.

13 BOARD MEMBER EATON: That's our choice?

14 MR. LaTANNER: Correct.

15 BOARD MEMBER EATON: Did that come before the
16 Board, that choice not to seat those funds in that
17 transfer? Perhaps it is reflective of a little history
18 here, that these moneys that went into the RMDZ account were
19 automatically transferred into this account, \$5 million
20 every year. That's how we fund the loan. That was up until
21 last year. Then the Board had the right to make a decision,
22 which I understand we haven't made a decision yet as to
23 whether to seek in our budget additional funds to fund these
24 loans. That wasn't done.

25 Now I am hearing that staff says neither this year

1 not next year. That's a policy decision we need to make, or
2 am I mistaken. Because the last time we did this -- I know,
3 Karin, you want to go there. But last time you did this you
4 got into a reserve over 20 million. You couldn't get the
5 loans out the door because the economic market went down.

6 So the question is are we not going to pursue a
7 transfer from the IWMA, understand so what Board action is
8 that taken.

9 MS. FISH: During the budget process the members
10 were briefed on the reserves. They were in the fund, and
11 the decision not to transfer at this point in time was in
12 the Governor's budget.

13 BOARD MEMBER EATON: That was a decision?

14 MS. FISH: Those decisions --

15 BOARD MEMBER EATON: If that was a decision, it
16 wasn't done in the public.

17 MS. FISH: Those decisions on putting together the
18 plan for the Governor's budget are not done in the public
19 setting because the Governor's budget is a confidential
20 document until it is issued.

21 So the members were briefed individually on what
22 the spending plan will be. If it is the direction now that
23 when we go into the planning process for this next year you
24 would like staff to look at a transfer of funds, we can do
25 so at that time.

1 BOARD MEMBER EATON: Wouldn't that make sense if
2 we are trying to -- that's what I'm saying. Doesn't that
3 make sense? If you are not going to seek information as to
4 a transfer, then you have already sort of assumed that we
5 are just going to do the loan sale. That's what the
6 assumption is based on.

7 MS. FISH: And unfortunately the decisions that
8 were made were as a result of some increased expenditures
9 relative to salary costs, some increases that we made in
10 household hazardous waste grants to take down the reserves
11 in the IWMA. We would have to look and reset priorities if
12 we were going to transfer \$5 million and look at some
13 programs that could be reduced.

14 BOARD MEMBER EATON: It says up to 5 million.

15 MS. FISH: I know, but we could come back with
16 some options based on the reserves and how high they are as
17 well as some possible options for making reductions in other
18 areas.

19 BOARD MEMBER EATON: So we did not approve for
20 next year's budget?

21 MS. FISH: No, the Governor's budget.

22 BOARD MEMBER EATON: No, we prepare that here. We
23 prepare that as a suggestion in what we want to do with our
24 money, not just confidential. The confidentiality extends
25 to what goes on in certain transactions. It is not to

1 whether or not a policy item -- as to whether or not we want
2 to transfer the funds. That is a public discussion.

3 MS. FISH: We could come back with a policy item
4 giving the Board some options for when we go into the
5 planning process.

6 BOARD MEMBER EATON: Wouldn't that be good to go
7 for the sale of loans so we could get a full presentation?

8 MS. FISH: We could prepare that.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you. It
10 wasn't clear to me, Mr. Lotsey, if you wanted to speak again
11 on No. 3. Mr. Mohajer, you said everything you wanted to?

12 Okay. Mr. Paparian?

13 BOARD MEMBER PAPARIAN: I think we are all in
14 agreement that what we want is to find as much money as
15 possible to fund the types of programs or projects that are
16 funded by the RMDZ.

17 Again, one of my concerns is that if we go down
18 this path, we may have a huge infusion of money in the
19 short-term at the expense of longer-term stability of the
20 program. Where I would like to get to is to maximizing the
21 amount of money over time that we have available for the
22 types of projects that RMDZ funds.

23 Again, when I think of leveraging, I think of
24 looking to other pots of money that are out there for
25 similar projects that perhaps we can partner with in order

1 to get more funding in the RMDZ for RMDZ projects.

2 Just as an example, I know that local governments,
3 cities and counties have a joint funding source where they
4 just spend \$25 million in a loan to a single company for
5 waste-related activities.

6 Now, that type of money, if we were able to work
7 with them to target it to RMDZ projects, I think would have
8 enormous benefit for the types of things that we are trying
9 to achieve. On this specific item one of the tasks
10 identified is to have this person identify and evaluate
11 alternative methods for leveraging the portfolio.

12 Perhaps we think of different things when we think
13 of the term "leveraging." But I think if the person who
14 works on this scope of work would almost have a conflict of
15 interest in terms of looking at the types of leveraging that
16 I am interested in. It seems like they would be looking
17 towards leveraging in terms of selling the portfolio.

18 My interest in leveraging is in terms of
19 maximizing the value of the types of things that we fund,
20 which may not necessarily be consistent with selling the
21 portfolio.

22 So I want to make sure that if this goes forward,
23 that we don't think that this scope of work exhausts the
24 possibilities in the leveraging area, that we pursue
25 leveraging in addition to what's perceived in the scope of

1 work.

2 INTERIM DIRECTOR BRUCE: I was going to suggest
3 that as part of a four-picture, that we could bring to the
4 Board, that we could also prepare and look at our budget
5 maybe next couple of years out and do some projections so
6 that you could take a look at any moneys that would be
7 available for transfer.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

9 BOARD MEMBER JONES: Madam Chair, I want to do
10 this desperately because I think that it is important. But
11 I tend to agree with both of my colleagues who say if you
12 look at these tasks, contractor is going to provide the
13 assistance in preparing a request for proposal. He's going
14 to attend -- he's going to attend Board briefings and
15 meetings to support the agenda items to award the agenda
16 item, which is task 3, and he's going to assist in the
17 negotiations of the final document.

18 What might make more sense and won't cost quite as
19 much money is if the Board members would entertain the idea,
20 and I don't know if we can do this through our existing
21 contract with the City of Long Beach or what we would have
22 to do, but it would seem to me that -- I agree with
23 Mr. Paparian.

24 When I talk about leveraging, I always felt that
25 you have to bring something to the table in order to get

1 somebody to leverage with you. So I think that's what this
2 loan sale could provide us, is a stake at the table. I
3 think I would rather see the scope of work be more about
4 what our options are, identification of strategic partners,
5 how we could take -- how we could take proceeds from a loan
6 sale and leverage them.

7 We were in meetings where we were talking about
8 two to one, one to one, none at all, when actually there may
9 be options to go four to one, five to one if we can bring
10 something to the table. That agreement that was for \$25
11 million for the public industry took two years to put
12 together. It all happened in 90 days, but took two years.
13 Come up with \$25 million so they could float bonds to lease
14 that equipment, and it is a 12-year payback. Whether they
15 are going to buy the equipment or not buy the equipment at
16 the end of that lease, who knows.

17 I think that's a great pool of money. We need
18 somebody that can tell us where those pools of money are,
19 what the conditions are, how we need to structure our
20 program to take advantage of that and what are the
21 timetables involved. What are we looking at if we're doing
22 cofunding, co-opting of these things, participatory loans
23 with other people. That's the kind of work that I think we
24 need to see. Remember, we have 3 million of unintended
25 dollars this year, 3.4.

1 MS. WOHL: It is about 4 million.

2 BOARD MEMBER JONES: About 4 million bucks this
3 year and 7 million-plus for next year. I would ask members
4 how they feel about the idea of looking at either working
5 with Victor to help do this, or at least maybe Victor would
6 be able to tell us who we need to do this.

7 I agree with the other members. This may be just
8 a little bit quicker than we need, as far as putting the
9 papers together. But it absolutely follows -- it absolutely
10 follows what our work group had put together. So I don't
11 want there to be any misunderstanding. This is exactly what
12 staff was instructed by the working group to put together.
13 But based on the suggestions, it makes more sense to me to
14 maybe forget about task one, look at the other tasks in a
15 way where information is going to come to us so we can
16 maximize those dollars. Does that make sense to members?

17 I have not read the second one. I don't know if
18 these things were included. It was just on my book when I
19 got here this morning. But I would like to look at
20 eliminating task one.

21 Okay. You guys got to kind of work with me. You
22 guys got to figure this out. Let's work on a contract that
23 will give us the ability to hire Victor or somebody like
24 that, or maybe a Victor through the Long Beach contract if
25 we can, where options can be explored through identification

1 of strategic partners, timetables, some discussion about
2 potential markets, secondary markets, you know, what is the
3 menu, not who are the players. What is the menu of
4 secondary interest in these loans and come back to the
5 Board, work with staff, work with the members who are trying
6 to identify those things, have a presentation in front of
7 this Board similar to the one in San Francisco so that this
8 Board can further direct based on that presentation of the
9 task to accomplish looking for the strategic partners and
10 the potential of leveraging and what we need to bring to the
11 table to maximize our leveraging. Is that in clear enough
12 English?

13 So we are saying forget task one. I am only going
14 through these because I don't want us -- I want those --
15 attend the Board meeting and support the agenda item, not
16 for the award on No. 3, but to inform us, inform the Board
17 on those options. I think No. 2 does need to -- not the
18 bids, but assist in the evaluation of potential second
19 markets, secondary markets. I don't think we need four and
20 five right now until we decide how we are going to come out
21 from that. Is that -- I know that's kind of hard to follow,
22 but does that make sense?

23 BOARD MEMBER PAPARIAN: I think I am following
24 you. I think it does make sense. I think implied in what
25 you are saying is an examination of the available dollars,

1 public and private, that might be available through
2 strategic partnerships or otherwise to help boost the amount
3 of resources available.

4 BOARD MEMBER JONES: But the other piece of that
5 is how much do we have to bring to the table to take
6 advantage of this.

7 BOARD MEMBER PAPARIAN: I understand that.

8 BOARD MEMBER JONES: I am not predetermining that
9 you have to, but that would be part of the study.

10 BOARD MEMBER EATON: That seems to be worth it. I
11 frankly don't understand. It would make precious little
12 sense not to do it the way you just explained it. Because
13 while you are working on a strategic plan, it would be nice
14 if the Board instructed whomever the contractor would be to
15 examine what is the ability to make loans with regard to
16 reuse industry, those kinds of things.

17 Those may not be your kind of industry that we
18 have traditionally sent, but to not go out and have that
19 discussion you will not know what the market is based on,
20 the priority of our hierarchy.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you,
22 Mr. Eaton.

23 Before we put that in the form of a motion,
24 Mr. Lotsey, do you wish to address us?

25 MR. LOTSEY: I thank the Board, and I understand

1 the point that's being made about excising from the scope of
2 the presentation, etcetera. I am coming up to request some
3 clarification on the language of exploring options or
4 leveraging options when it is my impression that the next
5 item, No. 4, is one that discusses co-participation and is a
6 separate exploration in the private sector for the same type
7 of options that this amendment to No. 3 might be driving
8 at.

9 So if I am mistaken, that's okay, but I am just
10 wondering what the linkage is there, if any, from the Board
11 members' perspective.

12 BOARD MEMBER JONES: Madam Chair, I think if we do
13 No. 3, we don't need No. 4. Does that make sense?

14 MS. WOHL: Sure.

15 MR. LOTSEY: Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.
17 So do you want to --

18 BOARD MEMBER JONES: Madam Chair, I need to look
19 over the corner here. Did you get most of what we said?

20 I know that's hard to do, but we were kind of
21 flying here without a net. Do we have enough direction in
22 that dialogue?

23 MS. TOBIAS: I believe we do. Thank you.

24 BOARD MEMBER JONES: Then I am going to ask for
25 adoption of Resolution 2001-20 to include -- as revised, to

1 include those instructions that were just given to staff on
2 how to proceed on this item. Is that clear enough, Kathy?
3 Does that work?

4 BOARD MEMBER MEDINA: Madam Chair, just a point of
5 clarification in regard to task force 3, I would throw that
6 out as well. We should not pay anyone to support agenda
7 items.

8 BOARD MEMBER JONES: That's fine.

9 CHAIRPERSON MOULTON-PATTERSON: I'll second
10 Mr. Jones' motion. We have a motion by Mr. Jones, second by
11 Moulton-Patterson. Please call the roll.

12 SECRETARY FARRELL: Eaton?

13 BOARD MEMBER EATON: Aye.

14 SECRETARY FARRELL: Jones?

15 BOARD MEMBER JONES: Aye.

16 SECRETARY FARRELL: Medina?

17 BOARD MEMBER MEDINA: Aye.

18 SECRETARY FARRELL: Paparian?

19 BOARD MEMBER PAPARIAN: Aye.

20 SECRETARY FARRELL: Roberti?

21 BOARD MEMBER ROBERTI: Aye.

22 SECRETARY FARRELL: Moulton-Patterson?

23 CHAIRPERSON MOULTON-PATTERSON: Aye.

24 MS. WOHL: I was just going to ask for one point
25 of clarification. Do you see this occurring through the

1 loan, the current designated working group where we would
2 bring in this consultant with that group, or is there any
3 mechanism that you see or would the Board prefer it in a
4 workshop format where they are participating?

5 BOARD MEMBER JONES: I think that if you decide,
6 whoever you decide -- you know who I want to do it -- that
7 you guys work to put that original thing together so he can
8 make a presentation to the Board staff, so he can make a
9 presentation, he or she, to the Board listing the options,
10 listing what the opportunities are.

11 If it is okay with my fellow members, I would be
12 more than happy to continue working on this to give some
13 clarification, if nothing else, and then I'll make sure it
14 gets to all of your offices before we do anything with
15 this. Reasonable?

16 BOARD MEMBER PAPARIAN: That sounds good. If
17 there are any workshops, just to be sure that it is noticed
18 in a way that any Board members who want to participate can
19 participate.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you, again,
21 Mr. Jones, for all your work on this working group.

22 BOARD MEMBER JONES: Thank you. Thank you to the
23 working group and our staff. We are getting there.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. So we won't
25 deal with No. 4, and this is the perfect time for a

1 ten-minute break.

2 (Recess was taken.)

3 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

4 BOARD MEMBER ROBERTI: For the record, these are
5 very nice chambers. These are very nice chambers, and very
6 impressive, and I like them. But for the record, no one
7 thinks that this current Board designed something quite so
8 imperial as this. For the record, I don't know who the
9 architect was, but it wasn't us. It is a tad imperial.
10 Aside from that, it is very nice.

11 CHAIRPERSON MOULTON-PATTERSON: Ex partes,
12 Mr. Eaton?

13 BOARD MEMBER EATON: Just a quick hello from
14 Mr. Delmatere [phonetic].

15 BOARD MEMBER JONES: A quick hello to Denise and
16 Matt Cotton, and a laugh with the Perezes.

17 BOARD MEMBER MEDINA: Hello from Joe Monte.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

19 BOARD MEMBER PAPARIAN: I spoke briefly with
20 George Larson and Denise Delmatere about item No. 8, also
21 Stewart Cumming and with Chuck White.

22 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

23 BOARD MEMBER ROBERTI: No.

24 CHAIRPERSON MOULTON-PATTERSON: And I have none.

25 We are on consent agenda, and we have items No.

1 23, 24 and 27 which have been placed on the consent agenda.
2 Would any Board members wish to pull any of these items on
3 consent?

4 BOARD MEMBER EATON: No, but I do have one
5 question that might be answered before we get there, based
6 on the school gardens program, if someone could answer it
7 for me. The issue is that obviously the school gardens
8 permit is a very important program, and gives legislation
9 one year to fund it.

10 One of the concerns that the Legislature had is
11 the present amount of the cost that the Department of
12 Education charges. So I was wondering if the scope of work
13 could be limited to what the Legislature restricted based on
14 their legislative proposal due to the fact that there was
15 quite a number of high administrative costs in the programs
16 and interagency agreements.

17 So I was wondering what would be contemplated.
18 Would it follow those statutory guidelines or would we be
19 negotiating something different?

20 CHAIRPERSON MOULTON-PATTERSON: That's No. 27.
21 You want to just go ahead and pull it?

22 BOARD MEMBER EATON: It seems silly to pull it. I
23 just want to make sure that the direction is that the
24 administrative costs should be --

25 CHAIRPERSON MOULTON-PATTERSON: Can we note that?

1 MS. FISH: We can handle that, yes.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. So we have

3 consent items 23, 24 and 27. Do I have a motion?

4 BOARD MEMBER JONES: Madam Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

6 BOARD MEMBER JONES: I'll move items 23, 24 and 27

7 with that caveat of the cost for the consent.

8 BOARD MEMBER MEDINA: Second.

9 CHAIRPERSON MOULTON-PATTERSON: Motion by

10 Mr. Jones, second by Mr. Medina to approve the consent

11 calendar. Please call the roll.

12 SECRETARY FARRELL: Eaton?

13 BOARD MEMBER EATON: Aye.

14 SECRETARY FARRELL: Jones?

15 BOARD MEMBER JONES: Aye.

16 SECRETARY FARRELL: Medina?

17 BOARD MEMBER MEDINA: Aye.

18 SECRETARY FARRELL: Paparian?

19 BOARD MEMBER PAPARIAN: Aye.

20 SECRETARY FARRELL: Roberti?

21 BOARD MEMBER ROBERTI: Aye.

22 SECRETARY FARRELL: Moulton-Patterson?

23 CHAIRPERSON MOULTON-PATTERSON: Aye.

24 We now go to Permits, LEA and Facility

25 Compliance.

1 And, Ms. Nauman, if you have a certain arrangement
2 through these, I am certainly open to suggestion.

3 MS. NAUMAN: Madam Chair and Board members, Julie
4 Nauman, deputy director of the Permitting and Enforcement
5 Division.

6 Yes, there have been a number of requests from
7 stakeholders. There have been a number of requests from
8 stakeholders to consider items No. 6 and No. 10 as a joint
9 item, if you will. I have no objection to doing that. It
10 probably will facilitate the discussion.

11 However, I would suggest that we take item 10
12 first followed by No. 6. They are related, but I think 10
13 will give you a better foundation of the entire issue of
14 organics material management, then deal with item No. 6.

15 CHAIRPERSON MOULTON-PATTERSON: Let's go to No.
16 10. Because I know some people were concerned about this,
17 and we'll take care of this before lunch.

18 MS. NAUMAN: It is discussion of proposed
19 regulations for compostable organic materials handling
20 operations and facilities.

21 Just let me lead this off with a few comments on
22 background on how we got here. This item stems directly
23 from one of the major areas of focus of the 1997 strategic
24 plan. Many of you will remember there was a greening team
25 that was kind of a joint effort between the community and

1 enforcement division and the markets division that worked on
2 a number of issues relating to integrating the opposing to
3 promote higher levels of green waste in the state,
4 recognizing that over 30 percent of the waste stream is
5 comprised of organic materials.

6 And at the time there were significant problems
7 associated with organic materials sites, and an interest in
8 trying to balance the need for a regulation with the
9 interest in promoting markets.

10 The items discussed proposed modifications to the
11 current listing of the regulatory requirements. Some of the
12 proposed regulations are designed to both protect public
13 health and safety and the environment all at the same time,
14 increasing the diversion and beneficial use of organics
15 materials.

16 This continues to be a successful cross-divisional
17 work effort. And while I have the privilege of presenting
18 the item, I too want to acknowledge the work of Patty Wohl
19 and the markets division for their participation and
20 involvement in this whole process of bringing these
21 regulations forward.

22 As I indicated at the briefing, we are bringing
23 this item forward now as a discussion item. We will be
24 coming back fairly soon to actually request your approval to
25 begin the formal process, but we have had a fairly extensive

1 informal process and felt that it was time to bring this
2 issue forward to the Board.

3 It is complex. There's a lot of history to it.
4 There are a lot of interests involved, and we wanted to have
5 an opportunity for both the Board and the stakeholders to
6 have some public dialogue about this together before we move
7 into the formal process.

8 So with those background remarks, let me turn the
9 presentation now over to two of my staff, Bob Holmes and
10 Jeff Watson.

11 MR. HOLMES: I am Bob Holmes with the Permitting
12 and Enforcement Division. A little brief background about
13 our existing compost regulations. The Board first adopted
14 compost regulations in July of '93. That was for green
15 waste only. Two years later, in '95, we added additional
16 activity and material types, but explicitly excluded certain
17 types of activities, such as vernal composting and chipping
18 and grinding. Those were not considered compost activities
19 at the time.

20 After that time period we experienced some public
21 health and safety concerns with those excluded activities.
22 So in '97 the Board adopted emergency regulations, and that
23 would bring chipping and grinding and vernal composting
24 activities partially into Board regulatory control. They
25 were placed -- three minimum standards apply to them, but

1 they were not placed into the tiers. So permitting
2 requirements were not -- they were not subject to permitting
3 requirements.

4 So this time around noticing that organics was a
5 big part of the waste stream, it was part of the strategic
6 plan, as Julie mentioned, a joint effort between the
7 Permitting and Enforcement Division and the Markets
8 Development Division and the development of this set of
9 regulations.

10 Part of the goal would be to place those chipping
11 and grinding activities into the tiers, but broader than
12 that as Julie mentioned. We wanted a set of regulations
13 that were protective of public health and the environment,
14 but at the same time made for the increase in business
15 opportunities so that that material could be diverted.

16 We have had quite an extensive informal comment
17 period for this package. It began prior to September of
18 '99. But in September of '99 the Board held six public
19 workshops as part of a requirement for SB 675 that focused
20 on odor issues with organic recycling activities.

21 At those workshops we also asked very conceptual
22 level questions about the existing regulations and got some
23 responses there. And then in July and August of 2000 we had
24 eight workshops statewide that focused more specifically on
25 the regulations themselves and how we could make them

1 better.

2 Since that time we have had additional meetings
3 with a focus group that we put together to look at these
4 regulations and other interested parties. I met with them
5 on an individual and joint basis. This is probably the
6 hardest ever informal process that we put together for any
7 rulemaking that we have had.

8 One of the other -- or one of the ways that we
9 propose to address this goal of being protective of public
10 health and also increasing business opportunities is to
11 adjust the tiering, adjust where facilities fit within the
12 tiers and what committee permitting requirements they would
13 be subject to.

14 So to help you understand the significance of
15 that, I was just going to go very briefly through a
16 background on the tiers. And, also, you have in little more
17 detail a chart that was handed to you that explains the
18 differences in the tiers.

19 Starting from the bottom and the excluded tier,
20 the lowest level of tier, activities and operations within
21 that tier are not subject to statement of standards, and
22 they are inspected on a complaint basis only and no permit
23 is issued.

24 Taking one step up in the LEA notification tier,
25 they are subject to statement of standards, but they are not

1 subject to permitting requirement. They have essentially a
2 one-page form that is filled out to notify the LEA of the
3 essentials, name, address, phone number, contact
4 information. Inspection frequency is sometimes set in reg.
5 We sometimes set it in regulation, sometimes not. By
6 default it typically falls to a quarterly or less frequent
7 inspection or on a complaint basis.

8 The next three tiers, registration, standardized
9 and full, all subject to State minimum standards. All have
10 a monthly inspection frequency. Where they differ is in the
11 process time and the amount of information that is provided
12 to process the permit.

13 The registration tier, that's a 30-day process,
14 and relatively minor amounts of information are given.
15 Steps up to standardized. That's a 75-day process and a
16 little more information is required. All the way up to a
17 full permit, which is 150-day process time line and is the
18 only tier where site-specific conditions can be added to the
19 permit.

20 One other issue that I'd like to explain before
21 handing it over to Jeff, who will talk more specifically
22 about proposed changes in the package, is the interface
23 between this item No. 10 and item No. 6 that is also on the
24 agenda today, which is the transfer of processing of
25 putrescible waste.

1 We have this flowchart that explains the thinking
2 decision tree. What we are proposing is that based on the
3 amount of time that a material would be on-site, and right
4 now we have that set at 48 hours, that is a proposed time
5 line that will be in the composting regs. That is not
6 existing. Currently there is a seven-day time period in the
7 compost regs for storage and chipping and grinding.

8 So if it is stored on-site for longer than seven
9 days and 1000 cubic yards, it is considered to be a
10 composting site. Less than that it is not. We would
11 propose to move that to 48 hours. And hence, if you are
12 greater than 48 hours, you would be a compost facility. If
13 you are less than 48 hours, you would be subject to the
14 decision-making tree on the right-hand side here. Two-part
15 test comes into play. If you fail the two-part test, then
16 you would be considered a transferring and processing
17 facility.

18 With that, that concludes my part of the
19 presentation. If there are no questions, I will hand it
20 over to Jeff Watson.

21 MR. WATSON: Hello. I'd like to go over just a
22 few things, keep it real general at first and then let you
23 ask some specific questions, if you will.

24 First of all, the reason why we had to do these
25 regs is because there was a perception of a level playing

1 field that chipper and grinder operations were behaving very
2 much like a composting facility, and there were no time
3 frames set and no standards.

4 So when we looked at that and the first step was
5 to include them, chippers and grinders as basically
6 composting facilities, considering that compost was used to
7 mitigate many of the problems affiliated with chipping and
8 grinding to turn it into a product to find an end use for
9 it.

10 In doing that we had to go a couple places. After
11 leveling the playing field, we had to figure out what that
12 meant. So we also added a section on requiring all
13 facilities and operations in this particular package to have
14 an odor impact minimization plan, which means they would be
15 submitting another piece of paper that even at the EA
16 notification level wasn't required.

17 We also wanted to do some simplification. So what
18 we do is we merge the requirements by adding them for the
19 registration and moved it down toward the EA notification
20 tier.

21 And then at the same time we wanted to give some
22 flexibility, so we added in an alternative classification
23 scheme that was available to certain facilities on certain
24 waste types.

25 So we also added a similar section under metals.

1 Testing that exists currently under pathogen reduction, that
2 section provides for an LEA approval of alternatives for
3 metals and frequency having to do with tonnages.

4 There are a lot of individuals in the audience
5 today, and they will be referring to aspects of a grid. You
6 may have a multicolored grid in front of you. There are
7 also four people in the back, stack of these multi-color
8 grids show us what we have changed and what we haven't. We
9 have added some sections in here. We basically made a
10 change what was considered clean green by contamination is
11 now considered green. So we are kind of under the bar
12 there.

13 That presents a couple of problems. So we have
14 added a food green material category, and that provides us
15 with a little higher level of oversight, and we basically
16 make the change that we don't have a standardized permit
17 that we are utilizing in this set.

18 So these sets of regs pretty much avoid using the
19 standardized permit. And, also, as you'll notice from the
20 grid, the registration permit now becomes kind of melded
21 with an EA notification. That means that more information
22 is required for EA notification, but there aren't monthly
23 inspections. So the intent was simplification. Are there
24 any questions so far?

25 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

1 BOARD MEMBER PAPARIAN: The food green I am
2 interested in. First of all, what is your layman's
3 definition of what it is? And secondly, I want to ask about
4 this 500 cubic yards amount.

5 MR. WATSON: Let's take them one at a time.

6 BOARD MEMBER PAPARIAN: Tell me what it means.

7 MR. WATSON: For food green the problem with just
8 referring to food waste in general is that there are so many
9 definitions, everything from lettuce still in the field to
10 the scrapings off a plate at a residential or restaurant,
11 food service type. So you have a wide definition.

12 So what we did basically is we tried to give a
13 definition that would exclude the green from it. In other
14 words, pure green stuff, but exclude the stuff that was
15 considered more difficult to handle and to bring in from a
16 standpoint of handling and collection. So that was
17 basically what we did.

18 Now, food, it gets very, very, very tricky here
19 because green material basically includes just about
20 everything but MSW, meaning not source separated, and then
21 certain types of hard to handle waste extremes, and
22 feedstocks.

23 So when we were looking at food green, what we
24 were trying to do was include the food waste sector, a very
25 broad sector that's defined by everybody differently, and

1 also include more contaminated green material, green
2 material that didn't make the clean green cut. So that's
3 what basically for a layman -- I guess you could say, food
4 green became the stuff that's too dirty to be green but not
5 dirty enough to be MSW.

6 BOARD MEMBER PAPARIAN: It would include
7 restaurant waste, then?

8 MR. WATSON: Correct, handled source
9 separated-type restaurant waste. Food green would be able
10 to handle that.

11 BOARD MEMBER PAPARIAN: Then the next question I
12 have is about the 500 cubic yards. Mr. Jones can help me
13 how much a cubic yard weighs, but 500 cubic yards excluded,
14 and the chart that I have seems to me to be somewhere
15 between 50 and 200 tons.

16 MR. WATSON: It is a windrow about 200 feet long,
17 50 feet wide, average somewhere about ten feet, yeah. It is
18 a sizable amount. And the reason for that exclusion right
19 now was institutional and basically school programs, college
20 programs and that sort of thing. That was the basis for
21 that.

22 MR. HOLMES: And that is existing. We are not
23 proposing to change that. That is from the existing
24 regulation.

25 MR. WATSON: Yeah, you could say that. And the

1 reason you could say it was existing, since there wasn't a
2 food green category prior, this takes over the green
3 category. So we are basically making multiple changes and
4 we end up with this 500 cubic yards, or in that area.

5 The actual number would be basically subject to a
6 certain amount of negotiations on what is out there, and we
7 were going to look at that and a couple others in the 45-day
8 comment period.

9 But since we didn't have a reasonable rationale to
10 change it at this point, we believed that 500 cubic yards
11 were considered not a facility type, so it was under a
12 facility type, and it was below regulatory concern in the
13 previous reg packages. That's basically why that exists.
14 Tonnage is a difficult thing to discuss because bulk density
15 vary on feedstocks incredibly. So I wouldn't even like to
16 tell you what tonnage that would be.

17 BOARD MEMBER PAPARIAN: Right, my guess from what
18 I know is probably between 50 and a couple hundred tons.
19 Which either way you look at it it seems like a noticeable
20 amount of material for the type of material that it is.

21 MR. WATSON: If it were all food scrapings off a
22 cafeteria, I believe we'd have a problem. If it were all --
23 in most cases it is almost impossible to compost that. So
24 that person would be asking for a problem. Understanding
25 that they would be in that case, as excluded, they would be

1 outside of minimum standards. So we wouldn't have any
2 authority to impose a minimum standard at this point if we
3 had that much.

4 BOARD MEMBER PAPARIAN: How much of a problem
5 would it be, in your opinion, if we were to move that over a
6 column or two, and say EA notification?

7 MR. WATSON: Of course, because this is an
8 entirely inclusive process, I would have to reflect that
9 back to the stakeholders. I personally don't think it would
10 be a problem, but I would like to see. See, a zero
11 tolerance in that type of material might be difficult.

12 In other words, say that we would have zero. That
13 would be -- so that type of material might offer an
14 implication implementation problem. That proposal has been
15 suggested by stakeholders.

16 BOARD MEMBER PAPARIAN: When you say zero, on the
17 other hand, 500 cubic yards feels like a lot to me.

18 MR. WATSON: It is easy to go zero tolerance from
19 sewage sledge because it is coming from a generator source
20 and people don't carry that around in the back of the
21 pickup. Food waste is carried in the back of pickups.
22 Thank you. Any other questions?

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

24 BOARD MEMBER MEDINA: Yes. The clean green
25 classification, how would you describe that?

1 MR. WATSON: We don't use that term in the current
2 draft, but the previous one says it had physical
3 contaminants of less than .5 percent, a half a percent. So
4 it was very clean stuff.

5 To put that in perspective, it is what a mature
6 and fairly efficient curbside would produce, not an
7 initial. Evidence would suggest that initially when
8 curbside is done, there's a lot of people putting a lot of
9 things that they are intent on getting rid of into your
10 curbside. So we get higher.

11 So as an education process is employed in a
12 curbside green material collection system, you get something
13 around there. Some of the industry representatives will say
14 that that's an interesting number and that we would be well
15 advised to increase that number to somewhere between 2 and 3
16 percent, but it is a relatively clean material.

17 BOARD MEMBER MEDINA: By removing the clean green
18 classification will the feedstocks not be as green or will
19 they be greener?

20 MR. WATSON: In this structure I believe,
21 depending on the number that we pick for the contamination
22 level, the feedstocks arriving from a green are now called
23 green facility should be noticeably cleaner. There is a
24 reasonable amount of pressure under this current regulatory
25 structure to increase a cleaner feedstock.

1 That being said, I would like to remind everyone
2 that the hook of the feedstock, green material, does include
3 paper products. So under current green material it would
4 have and could have substantial amounts of paper in it
5 because paper is considered a feedstock. And as a carbon
6 source, especially mixed with your more -- your higher
7 nitrogen proteins and food materials is a very good source
8 of carbon. So we encourage, actually, a certain amount of
9 paper.

10 So from a standpoint of litter generation, it
11 would still have that potential. Plastic would be down.
12 And one of the worst things that happens to a composting
13 facility is to get an infusion of glass because it is almost
14 impossible to remove. So that would be one of the things
15 that the collection people would hit them the hardest, is
16 glass. Glass is basically prohibited.

17 So if you had glass that was being broken, which
18 that's what glass does when you handle it like green
19 material, implementation, again, is an issue. I don't know
20 if any of us can look at a pile and say that's .5 percent.
21 We need some testing and training.

22 Anyone else? This is a discussion item, so I
23 encourage anything that even vaguely resembles discussion.

24 CHAIRPERSON MOULTON-PATTERSON: We have a lot of
25 speakers, and it was unclear to me, some of the speakers

1 signed up for six. Did they want to speak to ten also, your
2 group? Sean, we'll start with you.

3 MR. EDGAR: Sean Edgar on behalf of California
4 Refuse Removal Council. I'll address briefly No. 10. But
5 just as we indicated at the briefing last week, these items,
6 No. 6 and 10, are very closely related from the standpoint
7 of the food waste and the putrescible waste issue that we
8 have been struggling with for many years.

9 We recognize and what we would like to communicate
10 to the Board through our presentation this morning is that
11 the handling and collection side of this material, we have
12 in some cases somewhat loosely defined regulation at the
13 current time for instant food waste.

14 However, we talk about pre-consumer meaning plant
15 cannery waste, which is existing in the pre-material
16 definition. We talk about post-consumer which potentially
17 we call municipal solid waste. So we realize that the
18 checks side that's being dealt with the collection transfer
19 side that's being dealt with in item No. 6 is very closely
20 related when that material gets to the composted facility as
21 is being discussed in item No. 10.

22 However, specifically on item No. 10 we believe
23 that this linkage -- when we get through the agenda item 10
24 we believe that we should come back to agenda item 6 with
25 regard to having the targets for the transfer and whatever

1 percentages. And I'll speak to 10, the industry has a
2 suggestion on what percentages we should come up with. We
3 believe they are married and that the collection and
4 transfer aspects should be mirrored in the composting
5 facility aspect.

6 That having been said, briefly on agenda item No.
7 10, I have been fortunate to be able to work with staff
8 extensively over the last month or so. I feel that staff
9 has done a very good job at soliciting additional comments
10 and understanding the implications. And understanding that
11 staff, as Mr. Holmes indicated, did a very lengthy process
12 and there has been a lot of good input over the last four
13 weeks.

14 Where we are at right now is wanting to do some
15 additional work with staff on definitions of materials on
16 the items that Mr. Paparian looked at. The 500 cubic yards
17 of transfer of food green is roughly 15 40-yard Dumpsters or
18 250 tons, if you use 1,000 pound a cubic yard as a
19 conversion factor. So significant amount of material.

20 And in general the industry is supportive of items
21 that clean food waste of a green material definition now,
22 which is your plant and cannery waste. If it is nice, clean
23 pre-consumer stuff the risk factor of that going to a
24 composted material and being used to bulk up with green
25 material that, in general, the industry is supportive of

1 efforts to enhance that.

2 However, the post consumer residential aspect of
3 what is commonly known as MSW solid waste, we want to ensure
4 as we go through this with staff that that post consumer
5 material is dealt with in a manner that's protective of
6 public health and safety and also recognizes the same level
7 of scrutiny and permitting requirement that is in the
8 transfer station now.

9 If it is the same material that's on the
10 collection processing side and we are calling it MSW now, if
11 we are going to now split it apart, food waste in
12 particular, and say that it is something a little bit
13 different, if you are going to bifurcate definitions, then
14 we want to make sure that this gets into the compost side of
15 things.

16 So I appreciate staff's efforts, and I appreciate
17 your efforts to allow us to speak to this issue and look
18 forward to providing more detail when we deal with the
19 agenda item 10. Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Chuck White.

21 MR. WHITE: Chuck White with Waste Management.
22 Thank you very much for the opportunity to speak. I presume
23 we'll be able to speak again on item 6 as well. Because my
24 comments right now are directed only towards item No. 10. I
25 haven't had really much of an opportunity to digest the reg

1 package in detail, but would like to have some more time
2 certainly to work with the staff. And perhaps even though
3 there has been a workgroup over the last couple of months,
4 maybe that could be broadened to incorporate some other
5 stakeholders into a final process before these regs are sent
6 out for public -- formal public notice.

7 There certainly are some very good elements of
8 these proposed reg packages. We agree that chipping and
9 grinding being combined with other provisions in a uniform
10 regulatory package does make a lot of sense.

11 We don't have any problem with compressing the
12 tiers, the various five tiers, compressing them down and
13 perhaps getting rid of the standardized tier, but we do
14 believe there is a need to retain at least the registration
15 here for some of the reasons that I am going to articulate
16 in a second.

17 We totally agree with Mr. Edgar about the problem
18 of needing to be able to fully coordinate with putrescible
19 regulations. And before these regulations proceed, we
20 should have a clear understanding of what is putrescible
21 waste and how much should exist in the solid waste stream
22 and be regulated.

23 But with regard to this, the 500 cubic yards of
24 compostable seems to be too high for total exclusions of
25 food or putrescible waste. Maybe for non-putrescible green

1 materials, for large chunks and chippings of woody
2 materials, but there's clearly an inconsistency with the
3 existing transfer regulations which currently require
4 anything greater than 50 cubic yards or 15 tons to be
5 included in a registration tier for a transfer station
6 handling solid waste. So this 500 cubic yards of
7 compostable being totally excluded is just absolutely
8 inconsistent with the current regulations the Board has on
9 the books.

10 The second major concern we have -- by the way,
11 the 500 cubic yards, to get a sense of it, is about the size
12 of this room filled to a depth of three or four feet. So
13 you are talking about significant putrescible materials.
14 You are talking about a significant amount of waste covering
15 the entire floor of this room.

16 When you talk about 20,000 yards of compostable,
17 that's too much, we believe, to be eligible for a
18 notification tier. 20,000 cubic yards is a football field
19 ten feet deep in compostable.

20 We suggest this should be in a notification tier.
21 The notification tier, as you recall, was set up to be a
22 ministerial tier that would allow low-impact operations to
23 be cited through an LEA, not necessarily subject to CEQA.

24 These regulations presume that knowledge of these
25 operations would be subject to CEQA. And so we believe

1 there's an inconsistency with what is suggested for a
2 notification tier of this size of operation that is going to
3 be required to comply with CEQA anyways. And at least the
4 registration tier would certainly be more appropriate for
5 20,000 cubic yards of compostable materials.

6 We can't imagine any local jurisdiction that would
7 allow a football field ten feet deep of compostable
8 materials to be cited without going through the CEQA
9 process.

10 The alternative classification by LEA is larger
11 than 20,000 cubic yards may have some merit, but it
12 certainly shouldn't place anything down lower than a
13 registration tier given again to be eligible for this
14 alternative classification.

15 The regs propose you have to comply with CEQA
16 anyways, and CEQA registration tier was the lowest tier for
17 which it would be a non-ministerial discretionary action for
18 which CEQA would be anyways. There are smaller issues that
19 these regulations didn't break out.

20 To give you an example, on page 8 it talks about
21 prohibition of composting of medical waste and hazardous
22 waste. I can understand the reason for wanting to do that.
23 No. 1, this Board does not regulate medical waste or
24 hazardous waste. And there may be certain situations that
25 the Department of Health Services indicates that the medical

1 waste, and the Department of Toxics in the case of hazardous
2 waste, through R and D programs and other types of programs
3 may want to consider alternative treatment programs in
4 composting medical and hazardous waste. It should be
5 allowed. And particularly commingled with solid waste, if
6 it is appropriately permitted by these other regulatory
7 agencies.

8 At a minimum, I would suggest this language be
9 modified to allow the composting of medical and hazardous
10 waste providing that other agencies authorize those
11 activities, the Department of Health and Department of Toxic
12 Substances Control. There's a number of issues like that.

13 I won't burden your time here, but I would like
14 the opportunity to work with the staff before these go out
15 in final form to address some of these issues that I have
16 raised today.

17 CHAIRPERSON MOULTON-PATTERSON: Matt Cotton.

18 MR. COTTON: I am representing the California
19 Organic Recycling Council. We have been very involved with
20 crafting the existing regs starting in '93 through '97. We
21 represent a variety of people.

22 I want to take a brief amount of time to thank
23 Board staff and concur with Mr. Edgar and Mr. White, staff
24 has been very willing and open to meet with and discuss a
25 lot of the issues we see before you.

1 I think we are making progress towards common
2 ground, but there are a number of issues. I think we all
3 agree the owner management plans are a great idea. That's
4 one of the few shinning spots we all agree on.

5 We think it is an excellent addition to the new
6 regs. Some of the things are the slotting of facility
7 types. We were the first to discuss tier regulation at this
8 Board. We fought diligently from '93 to '98 to get those.
9 We think they are different than your solid waste landfill
10 operations and need to be treated as such.

11 The current regs take the tiers and compress them,
12 and in a way guts the middle class and pushes a lot towards
13 the highest tier and some towards the lowest tier. We are
14 concerned about that. You can't treat everything as
15 composted.

16 We support chipping and grinding, but everything
17 that treats compost after 48 hours is awkward, and I think
18 intellectually devious. Those guys, for example, a grinder
19 taking wood waste, perhaps pallets and a little bit of green
20 waste keeping those on-site for longer than 48 hours and be
21 required to do pathogen and metal testing despite the fact
22 that all that material may be going to a plant for
23 electricity. That's awkward.

24 We want to encourage food waste diversion.
25 Organics are still the largest unrecovered of the waste

1 stream. I think it is important to make the distinction
2 between composting operations, diversion facilities and
3 solid waste facilities.

4 Putrescible, I am sure that will be discussed.
5 That's a troubling definition. Again, we look forward to
6 continuing to work with Board staff who have been very open
7 to our concerns. I'll be happy to answer any questions.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. I have
9 other slips for six. If you want to speak on ten, let me
10 know. Don Gamblin.

11 MR. GAMBLIN: Don Gamblin, NoCal Waste Systems.
12 Thanks for the opportunity to speak. We have been somewhat
13 involved with staff, although not as much as we'd like to
14 be, particularly given that NoCal has some facilities in the
15 state that are probably going to be most affected by these
16 regulations, and certainly -- not only affected, but are
17 certainly most experienced in handling organics in dealing
18 with post consumer food waste.

19 I want to put some perspectives out there on what
20 we are looking at from our company's perspective, and I
21 think some folks in the industry might share this also.

22 I am kind of a fan of history. I think watching
23 the old shows like the 1906 earthquake in San Francisco, and
24 I am just concerned we are going to go back in history for
25 solid waste regulation and handling where we are going back

1 to the era of garbage dumps and people not being so
2 concerned about burning piles of waste in the street.

3 The very reason why we have solid waste
4 regulations in their form today is because of the public
5 health and safety and environmental concerns about handling
6 primarily putrescible waste. You know, call them what you
7 want.

8 I am going to use a few terms interchangeably
9 here. I am going to say food waste. I might say
10 compostable organics the same way somebody might say sledge
11 versus biosolids. I tend to use them interchangeably.

12 It is food waste. It is waste material no matter
13 how you look at it and no matter what you call it. Just
14 because you now define it as compostable organics, doesn't
15 mean that the same problems for which it was previously
16 regulated are not still in existence.

17 They are public health and safety and
18 environmental issues of why regulations exist in their
19 current form today. And under the guidelines of composting
20 or recycling, those issues don't go away. In fact, in some
21 cases they might be more pronounced. So, again, just sort
22 of a perspective on that.

23 I also -- given how many times our company is in
24 front of you for permits, I kind of wonder why everybody is
25 so afraid about the permit process and the public

1 participation that comes along with it for these types of
2 facilities.

3 We seem to be wanting to throw operations and
4 facilities that handle food waste, that handle garbage, into
5 these tiers where nobody is going to know about it. It is
6 not going to go through a permit process and public input
7 process. I just don't understand why people are so fearful
8 of going through that process. I tend to think it is
9 healthy for the industry to have that level of regulatory
10 oversight, that level of public scrutiny to go through
11 that.

12 You know, frankly, we are somewhat fearful that
13 bad operators might be able to come in under a regulatory
14 structure such as that before you. It certainly could
15 jeopardize our innovative programs in San Francisco that I
16 know you have all been briefed on that deal with food waste
17 and food waste compost.

18 And we certainly wouldn't want an impact to those
19 types of permits, because I think they are very important.
20 I think moving into the future, the word I hear -- I just
21 attended a SWAN program on composting recycling in Denver,
22 and all the buzz out there is organics and food waste
23 composting. Everybody wants to do it.

24 I think the regulations are timely because you do
25 have to take a different look at what you have from 1993.

1 But let's not kid ourselves that this is not garbage.
2 Landfills are regulated because they receive a substantial
3 amount of compostable organics on a daily basis, or food
4 waste, whatever you want to call it.

5 So now we are talking about facilities that are
6 going to be handling the same types of material. And
7 because we are recycling it, we don't need to regulate
8 that. We differ on that. We definitely differ on that. We
9 feel it is important to regulate it.

10 Board Member Medina asked if green material, if
11 that's going to make it more green. I think that's somewhat
12 answered, and no, it is not. Because green material allows
13 you to put in paper, certainly not the clean green that is
14 coming out of somebody's curbside yard collection material.

15 Now, Board Member Paparian, your question on 500
16 cubic yards was answered in the size of a windrow. And
17 Mr. White gave an example of let's put it in transfer
18 trailers. 500 yards is five transfer trailer loads full of
19 this stuff being dumped somewhere. 20,000 yards is worse,
20 that's 200 transfer trailers, to give you some idea of
21 putting it in terms of the waste management industry.

22 Finally, just to let you know from a specific
23 company perspective, in our experience in San Francisco and
24 one of our composting sites out in the valley, these are the
25 programs. These are the operations and facilities that are

1 handling San Francisco's very innovative pre/post consumer
2 organics check program.

3 I can tell you that the LEAs that we work with
4 both in San Francisco and Solano County, they want full
5 control over facilities that handle these types of waste
6 simply because of vector control issues, odor control
7 issues, the problem that could result from public health and
8 safety standpoint.

9 In fact, in a meeting a couple weeks ago, the
10 Solano County LEA, one of them was saying how he has
11 problems with all this encouragement of backyard composting
12 programs with food because of all the flies that come along
13 with it, and people just don't realize that if they are
14 operated improperly.

15 My intent was to give some different perspectives
16 on this. We certainly look forward to working more closely
17 with staff, because I think we can provide some very
18 valuable input on this since we have, I would say, the
19 greatest amount of experience in this type of composting
20 operation. Thank you.

21 CHAIRPERSON MOULTON-PATTERSON: Paul Ryan, do you
22 wish to speak on this one or No. 6?

23 MR. RYAN: Paul Ryan representing the Inland
24 Empire Disposal. I won't repeat the notions that have been
25 brought forward by the other stakeholders, but we do share

1 the same concerns.

2 At the last Board meeting I did submit a letter to
3 the Board addressing both of the issues mentioned in item
4 No. 6 and 10, and I do hope that you consider it again as
5 part of the public record.

6 As I listen to the presentations and so forth, and
7 as a participant in the recent section on the strategic
8 plan, it occurred to me that this is the first of the
9 regulations that should hopefully be looked at in terms of
10 those attributes that have been brought forward by the Cal
11 EPA administrator in terms of the division.

12 This is one of the issues that we have concerns in
13 the south, particularly in the Inland Empire. Because if
14 you are familiar with the history of that area, we have the
15 bad vernal culture operators and a number of blatant
16 facilities that have taken and licensed on the whole
17 process. So we have a great deal of concern about keeping
18 the playing field level and also protecting the public
19 health and safety and the environment.

20 One of the things -- as I mentioned in terms of
21 the Cal EPA vision statement, this is one of these areas and
22 the regulations should be considered in terms of the
23 cross-media considerations.

24 As you are aware, South Coast Air Quality
25 Management District is undertaking both rulemaking for

1 composting facilities and also livestock and manure handling
2 facilities. So in that relationship I feel that -- and
3 hopefully the Board will seek their advice as well as ARB in
4 terms of those kind of impacts that will impact the air
5 quality as well as the regulation of the composted
6 facilities.

7 Further, both the Inland Empire Disposable
8 Association and California Refuse Removal Council would like
9 to participate as a stakeholder in the rulemaking and also
10 the regulation development along with the other
11 stakeholders. Because our experience today is a little
12 different than some of the other stakeholders, and we have
13 sort of tasted some of the successes and failures where
14 others may not. So we would like your consideration. Thank
15 you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you. Larry
17 Sweetser? Just six. Okay. Stewart Cumming, six. Did you
18 wish to speak on No. 10?

19 MR. CUMMING: Good afternoon. Stewart Cumming. I
20 am the president of the Cimarron Ranch Neighborhood
21 Association.

22 Real briefly on this, I would just like to point
23 out to Board members a couple things that have me
24 concerned. I am sitting here today, and I am a minority. I
25 am a homeowner. I hear a lot of people talking about

1 stakeholders, but I haven't heard a single stakeholder
2 mention us. And we are the greatest number of
3 stakeholders.

4 We are the people that live in this state. We
5 don't operate these businesses. We have to live next door
6 to these businesses, down wind from these businesses,
7 downstream from these businesses, and it really concerns me
8 when I listen to Board staff talk about input they have had
9 from stakeholders, and I don't see any input coming from
10 people like me.

11 We are the stakeholders, and we need our concerns
12 heard as well, and I think it would behoove the Board to
13 direct staff to make very concerted efforts to include
14 members of the general public in these stakeholder meetings,
15 and in their forums where these regulations are drafted,
16 since we are the people that have to live with the decisions
17 you make.

18 Going to that, again, I am concerned with these
19 organics regulations where we have tiers that have little or
20 no oversight. Coming from the Inland Empire I can reiterate
21 we have had some very poor experiences with operators being
22 able to operate under no regulation or very little
23 regulation and abusing that privilege to operate in such a
24 manner, causing a myriad of different problems.

25 With that, I will save the balance of my remarks,

1 with one caveat. The other thing that I would point out to
2 the Board, too, with these regulations is AQMB has and is in
3 the process of enacting much more stringent regulations with
4 composting, and also the Regional Water Quality Control
5 Board in the state are again beginning to come down very
6 hard dealing with Regional Water Quality Control issues.

7 I don't think the Board should be looking at
8 putting these types of facilities in tiers that are not able
9 to be regulated by LEAs and without regulation, when we see
10 all the other regulatory agencies in the state tightening
11 the belt rather than loosening that.

12 With that, I'll save the balance of my remarks for
13 six.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you,
15 Mr. Cumming. Okay. Any Board comments or discussion on
16 ten? I think Senator Roberti.

17 BOARD MEMBER ROBERTI: Madam Chair, I am still
18 unclear as what the overarching problem is.

19 MR. WATSON: The rationale was that there were
20 operations that were given an expectation in the '97
21 emergency regs that we would slot them in the permitting
22 structure.

23 BOARD MEMBER ROBERTI: We would what?

24 MR. WATSON: We would put these chipping and
25 grinding facilities into the permitted tiering slots and

1 provide a permit regulatory oversight as well as the minimum
2 standard regulatory oversight.

3 BOARD MEMBER ROBERTI: You are only talking about
4 chipping and grinding?

5 MR. WATSON: Yeah, and that's a broad group of
6 oranges, the chipping and grinding.

7 BOARD MEMBER ROBERTI: Essentially deals with wood
8 waste?

9 MR. WATSON: No. Many of the biomass facilities
10 would essentially deal with wood chips and chipping for the
11 purposes of --

12 BOARD MEMBER ROBERTI: Give me some biomass that's
13 not wood chips.

14 MR. WATSON: They burn.

15 BOARD MEMBER ROBERTI: That would be chipping and
16 grinding?

17 MR. WATSON: The burning branches that have a
18 moisture content.

19 BOARD MEMBER ROBERTI: That's wood?

20 MR. WATSON: Depending on what they get in, it
21 does become putrescible if it is mixed with the green
22 material.

23 BOARD MEMBER ROBERTI: Well --

24 MR. WATSON: It is a gray line.

25 BOARD MEMBER ROBERTI: Isn't all wood putrescible

1 at some point? Isn't it a question where our definition
2 is? Even firewood is putrescible at some point.

3 MR. WATSON: I would have a hard time seeing the
4 current definition of firewood, but you could probably push
5 it to that end. All those things would be ultimately
6 combustible. Could be putrescible, paper.

7 BOARD MEMBER ROBERTI: My concern is what is
8 amounting to a whole new set of regulations that is going to
9 occupy the time and energy of the Board so that we are, in
10 essence, moving circularly when there are many things to be
11 done where we should be moving vertically or horizontally.
12 Can't some of this just be accomplished by a redefinition?

13 MR. WATSON: It is very difficult to include all
14 those things that could be or would be used as a compost
15 feedstock into a single or even a set of rigidly-defined
16 feedstocks.

17 So what we have tried to do here is look at what
18 the industry is doing in the State of California and look
19 where it is cutting off itself and including those. Those
20 were actually given to us by law. And maybe our legal
21 office -- Elliot might like to comment on why we have the
22 authority we do. But we have a very different authority
23 over composting than we do over other parts of solid waste.

24 BOARD MEMBER ROBERTI: In a nutshell, what's the
25 difference?

1 MR. WATSON: Basically we deal with solid waste as
2 a fact of how it is generated. We deal with composting
3 because of compost. That would be a nutshell. Anything
4 further I would like Elliot to come forward.

5 MR. BLOCK: Elliot Block with the legal office.
6 The Board's jurisdiction over solid waste has certain
7 statutory and certain exemptions. The big one we have been
8 dealing with off and on over the last few years is related
9 to material source separated and for use.

10 The Board's power over composting does not have
11 that same exception. Compost itself is defined in terms of
12 being source separated in the first place. So the Board's
13 jurisdiction over composting is broader, to the extent you
14 are dealing with material that is composted.

15 BOARD MEMBER ROBERTI: Wood chips under the
16 current statute and under the current regulations, where do
17 they fall?

18 MR. BLOCK: Currently?

19 MR. WATSON: Real quick, wood chips, if they don't
20 achieve active compost, in other words, get up to a certain
21 temperature, we would not be concerned even in our
22 jurisdiction.

23 The way that they do come in is if you leave a
24 pile of wood chips long enough it will start separating.
25 The fines of the wood chips will drop down to the bottom,

1 and the bottom will start composting, and then you get heat
2 and then you get the wet-dry interface and have fires.

3 BOARD MEMBER ROBERTI: And if that happens -- you
4 are saying unless that happens you are saying wood chips
5 don't come under our jurisdiction?

6 MR. WATSON: They would if they reach
7 temperature. And obviously if they start burning they are
8 going to be above temperatures. We can have something
9 sitting in a pile that wasn't in our jurisdiction, and then
10 as a result of a rainstorm came into our jurisdiction. We
11 include kind of a potential in the current regs.

12 BOARD MEMBER ROBERTI: Technically we cannot
13 increase our jurisdiction?

14 MR. WATSON: We make no attempt to do that with
15 these regs.

16 BOARD MEMBER ROBERTI: So under these regs, by
17 redefining "compost," I take it, to whatever, a series of
18 woods?

19 MR. WATSON: Composting organic materials.

20 BOARD MEMBER ROBERTI: Has nothing to do with
21 English. It is incomprehensible, which is going to have us
22 running around in circles trying to fine something that is
23 really just not there, quite frankly. Why can't we just say
24 compost and organic materials or something like that? Why
25 can't we use the words that we have without trying to change

1 things too much? What's broken that needs to be fixed?

2 MR. BLOCK: Two things. First point, when Jeff
3 was talking about where wood chips do or don't come into our
4 authority, he's talking in terms of the regulations. Those
5 materials are all within the Board's jurisdiction under the
6 statute. We have excluded certain things, for instance --

7 BOARD MEMBER ROBERTI: If it doesn't come under
8 compost, then where does it come under?

9 MR. BLOCK: It does come under compost, but then
10 in the regulations themselves we have a number of solutions
11 that we have included.

12 For instance, if that material has been stored
13 on-site of a biomass facility, which is the primary place
14 you are going to see wood chips, those are excluded from the
15 jurisdiction. By regulation we have said we are not going
16 to regulate those.

17 BOARD MEMBER ROBERTI: By regulation we said we
18 are not going regulate just stored wood chips?

19 MR. BLOCK: At a biomass facility.

20 BOARD MEMBER ROBERTI: If that comes within our
21 jurisdiction how are we going to say we are not going to
22 regulate it? We may regulate it lightly or more severely,
23 but how can we say we are not going to regulate it?

24 MR. BLOCK: Perhaps the semantics I am using are
25 the wrong ones, but to the same extent we have said we don't

1 regulate backyard composting. In theory, the Board has
2 jurisdiction to regulate that. We have identified those
3 activities as activities that do not create any threat to
4 public health and safety that requires active regulation by
5 the Board.

6 The second issue raised about compostable organic
7 materials title for these regulations, I think we have all
8 batted around a number of different names. Until there's a
9 better name to use, that's fine, but the name itself doesn't
10 drive the authority that we have.

11 BOARD MEMBER ROBERTI: I understand that, but the
12 semantics are going to have a way of driving the activity of
13 the Board and the activity of staff, and it is just the way
14 it is going to be.

15 MR. BLOCK: I think we recognize that. And to the
16 extent there is a better name we can use, that's fine. But
17 for some of the people in the audience have seen --

18 BOARD MEMBER ROBERTI: Why can't we just redefine
19 it if we believe there is a gap? It is not just semantics.
20 It is why are we making a whole new regulation rather than a
21 redefinition?

22 MR. BLOCK: There's two different questions that
23 you have asked there. Changing the name from composting to
24 compostable organics materials was intent to reflect the
25 fact that we are dealing with chipping and grinding and

1 storage of these materials as well, and we have had some
2 issues because of that semantics in the past where
3 individuals have said, "Hey, I am not composting.
4 Therefore, I am not regulated." So that was the reason why
5 we were looking for a broader name.

6 BOARD MEMBER ROBERTI: What percent of a
7 composting is chipping and grinding?

8 MR. WATSON: Is the question from the standpoint
9 of tonnage or standpoint of compliance?

10 BOARD MEMBER ROBERTI: Give me both.

11 MR. WATSON: From the standpoint of tonnage, we
12 have -- in Southern California we have several facilities
13 that are relatively small facilities that we know about that
14 would be a minor percent, under 10 percent of Southern
15 California. I don't have good numbers on the north at all.

16 And then as far as complaints, most of our
17 complaints, except for three or four large facilities, have
18 come from these loosely permitted facilities that have
19 called themselves chippers or grinders or something.

20 BOARD MEMBER ROBERTI: As opposed to composting?

21 MR. WATSON: As opposed to composting. We have
22 large facilities that get incredible amounts of complaints.

23 BOARD MEMBER ROBERTI: Some of the hottest issues
24 I have sat through on the Board dealt with just
25 old-fashioned composting, not chipping and grinding. In

1 fact, I don't recall any real chipping and grinding fight,
2 but I recall being here to the wee hours on composting.

3 MR. WATSON: One of the reasons you would get that
4 is, one, some people would not consider themselves
5 composting that are composting by our definition, and we
6 say, "Yeah, if it reaches temperatures of composting."

7 And No. 2, people coming to the Board wanting to
8 get a permit, the ones we feel we don't have any authority
9 we don't hear. For instance, Lanadockas, that went on quite
10 a bit. That particular facility is doing what we would call
11 straight composting, and we have gotten a lot of complaints
12 from that particular facility. As a matter of fact, that
13 would be probably more than all of Sacramento County.

14 BOARD MEMBER ROBERTI: Maybe because where
15 Sacramento is located we probably get a higher percentage of
16 that. I would say if I could think of my e-mail where I
17 have gotten public comment on my e-mail, I would think
18 Lanadockas is No. 1.

19 MR. WATSON: I could give you two or three other
20 facilities that would give similar comments, and they are
21 all permitted. Other than that, the ones that we get
22 comments from from the LEA, we have used the LEA as a
23 representative of most of the public interest because of
24 their direct involvement with the complaint system that we
25 have.

1 BOARD MEMBER ROBERTI: My thought is that one of
2 the main things we do is regulate composting. And I hate
3 taking our eye off the eight ball. Maybe it is a word, but
4 I think it has to do with the definition and having staff go
5 through a lot of the hoops on the matter.

6 We take our eye off the eight ball with
7 composting, with all the problems I think can be dealt with
8 defining composting quite logically to include chipping
9 issues, and we have come up with this mouthwash, combustible
10 organics materials handling, I don't see how that furthers
11 the work of the Board or our ability to keep our eye on what
12 we are supposed to be doing by moving away, which is
13 something that everybody understands.

14 Why can't we just have a simple definition? I am
15 not trying to be sarcastic. I feel this very strongly.
16 Rather than this rigmarole of reregulation in effect, for
17 what, something that's not really broken that can be
18 redefined and which, in essence, takes our eye off what we
19 should be doing. I don't know if you understand me.

20 MR. WATSON: I hope to. First of all, we, as part
21 of the process, welcome any comments from anywhere. The
22 reason why I think I might be repeating what Elliot said is
23 the reason why we chose compostable organics rather than
24 composting regs, is that there are many people that are
25 actually regulated now that chose to see themselves as not

1 regulated as a result of our choice of composting.

2 BOARD MEMBER ROBERTI: Can't that be handled just
3 by a definition?

4 MR. WATSON: In essence, we actually approached at
5 the beginning of the process by saying these are the things
6 that are broken. What do you want to see changed? And we
7 went out with a series of workshops, and we did send notes
8 to several public interest groups that were fighting a
9 particular facility or this one or that one. And some of
10 them did show up. In fact, we are welcome to hear from
11 anyone.

12 But what we did find in that initial process is we
13 don't want a massive change from the regs right now. We
14 want a tweaking rather than an overhaul. That's what we
15 have done, is tweaked it and tried to collapse it.

16 BOARD MEMBER ROBERTI: I guess you are giving us
17 an advisory. We are not going to be voting on anything.
18 Just from my input, I would like returning to the real words
19 and a simple change in definition as may be necessary is
20 what I, one Board member, would prefer.

21 And if it means we have to add in the words wood
22 chips, or whatever the exact terminology is, plus compost,
23 that's fine. So to the extent we need to make the change.
24 I am not even convinced we have to have the redefinition.

25 I hear you, some people are trying to escape. If

1 we redefine, they are going to try to escape that way, too.
2 Then what's going to happen is instead of all the work that
3 the staff has done trying to bring people within the
4 original definition and say, "Hey, you are regulated," now
5 we have a whole new set of rules, which are going to have us
6 trying to get the SCOF laws to come within the new set of
7 words, and another rigmarole certainly.

8 So I don't see what's broken, and I don't want to
9 fix what's not broken. Even if there is a theory that it
10 may be broken, the new words are going to give us just a
11 whole new set of SCOF laws and rigmarole, which I don't
12 think should occupy staff or the Board.

13 With all due respect to the people who have worked
14 hard and testifying to putting this together, there are more
15 basic things that we should be energizing on.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you,
17 Senator.

18 Mr. Jones?

19 BOARD MEMBER JONES: Just a couple of
20 observations. The chippers and grinders that I know, I went
21 out to some of their sites where they had stockpiles that
22 would fill up this entire building under the guise of
23 chippers and grinders.

24 Now, they were cleaned up by an order from an LEA,
25 I think. I think you know what I am talking about down in

1 Merced County, somewhere down in that area. They would be
2 included in this because of that definition, correct?

3 MR. WATSON: Correct.

4 BOARD MEMBER JONES: So while we may not have seen
5 it three and four years ago, I think when we were going
6 through these regs or one of the iterations of these regs,
7 that was an issue that came up. Because people were using
8 that to operate illegally. Maybe not illegally, because we
9 didn't have the definition, but outside the realm of public
10 health and safety by stockpiling huge amounts of wood as
11 feedstock and not processing, but getting a tip fee for it.

12 And then we have a couple of operations in this
13 area where people were accumulating shake roofs under the
14 guise of chipping -- roof tear-offs under the guise of
15 chipping and grinding that ultimately Sacramento County had
16 to fund to clean up.

17 MR. WATSON: I don't know about the funding
18 source, but I do believe there were several facilities I
19 visited myself.

20 BOARD MEMBER JONES: Said they were outside our
21 regulation?

22 MR. WATSON: Correct. And the 10 percent rule was
23 used during that discussion.

24 BOARD MEMBER JONES: I can appreciate we don't
25 want to be redundant. I think that it is critical that

1 there are holes in our existing regulations, that this was
2 all the genesis of legislation that said go out and talk to
3 the stakeholders on the odor issues and the others and grew
4 out of that.

5 MR. WATSON: Actually, we started the process
6 prior to that, but that definitely infused it with a new set
7 of priorities.

8 BOARD MEMBER JONES: Because I personally think we
9 need to go down this road. Having -- we got an awful lot of
10 Matt Cottons representing the composters who are legitimate,
11 the NoCal, the Waste Management, the CRC, the people that
12 play by the rules all endorse a package that makes a clear
13 line. And I am still waiting to hear from the ones that
14 don't want a clear lines, because those are usually the ones
15 that create the problems.

16 CHAIRPERSON MOULTON-PATTERSON: It is my
17 understanding that staff would like to know -- to get
18 direction from the Board to seek additional meetings with
19 the stakeholders; is that right?

20 MR. WATSON: I'll turn this over to Julie. But
21 because it is a discussion item, there is no imperative for
22 a Board action or Board direction, though we did offer a
23 couple of options in the agenda item.

24 MS. NAUMAN: Madam Chair, I would suggest that we
25 take a little more time to work with some of the

1 stakeholders. As we said earlier in the presentation, we
2 have had an extensive series of workshops.

3 I think many of the individuals who spoke here
4 this morning did have some representation. Maybe they
5 didn't participate personally, but I believe that the
6 industry representatives here today did, through others,
7 have an opportunity to participate.

8 We are certainly always open to any further
9 dialogue. I just think it is really important that we have
10 an opportunity like this to bring an opportunity forward to
11 the Board so you are fully informed of what we are working
12 on. And should your priorities change, then, of course, we
13 will take that direction.

14 But I think Mr. Jones hit on it a couple of times
15 in talking about it is not the ones that are obeying the
16 rules. It is the ones that are out there that are not, and,
17 therefore, creating a bad name and questionable future for
18 these kinds of activities.

19 And if we don't get a good regulatory handle on
20 these activities, then we as staff are concerned about the
21 future of these markets and the ability to recycle these
22 organic materials and keep them out of the landfills, which
23 are really where this all began.

24 So there's -- unless there are other comments, I
25 would suggest you give the staff some additional time, and

1 we will come back to the Board when I think we have taken an
2 appropriate period of time to review the issues that have
3 been raised here today, and we'll come back to you asking to
4 start the formal 45-day comment period.

5 I know Senator Roberti wants to say something, but
6 if every attempt could be made to notify those groups,
7 homeowners. We have had some titillating conversations with
8 some of the people that have testified here this morning.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

10 BOARD MEMBER ROBERTI: Frankly, I agree with
11 everything Mr. Jones said. My concern is -- I join with him
12 in my concern of the people who are trying to avoid
13 composting regulations be covered. I just don't feel that
14 we are doing it. There's a strong chance that these
15 regulations or these suggested changes, we may be doing the
16 opposite.

17 The presumption is that because we have a
18 definition that somebody's trying to avoid, that the new
19 definition is better. No, the same people who are going to
20 be trying to avoid the old definition will come back and
21 give us a whole new set of working arrangements that we are
22 going to have to avoid the -- they are going to try to avoid
23 under the new definition.

24 I submit that I think the words compost and
25 chipping and grinding are much broader and much more

1 inclusive than compostable organic materials handling. The
2 word "handling" narrows things. The only reason why we have
3 that word in there is that people are trying to avoid the
4 compost definitions, so we are coming up with another
5 definition, which in enterprising SCOF law is going to try
6 to avoid.

7 So I hope that we, in working on these new
8 regulations, try to do it this way: One, minimizing as much
9 as possible. As you said, that is your goal. Try to do it
10 strictly through a definition, if possible. Make the
11 regulations as minimal as possible, and do it with the
12 recognition that the SCOF laws are going to try to evade
13 it.

14 And one year from now, two years from now we'll be
15 saying that compostable organic materials handling is being
16 avoided and we need something stronger there. And the only
17 thing we have gained is to come up with something that is
18 not comprehensible to anybody over and above the words that
19 I have been using by compost, chipping and grinding,
20 whatever. That's my thought on the matter.

21 It is not that I oppose trying to bring within the
22 purview of our regulations the people that are trying to
23 avoid it. I join with the other Board members and with the
24 stakeholders who have testified who are trying to get some
25 strength in their own industry.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you. I
2 think we have pretty much exhausted this, and I had hoped to
3 take item No. 6 before lunch, but we are not going to be
4 able to. We will take it after our closed session. We plan
5 on having about a 30- to 40-minute closed session at 2:00
6 o'clock. So we'll be back here by 2:30 or so.

7 (Whereupon the noon recess was taken.)

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1 SACRAMENTO, CALIFORNIA, FEBRUARY 20, 2001

2 AFTERNOON SESSION

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4 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
5 the meeting back to order. I apologize for it taking
6 longer. Any ex partes?

7 BOARD MEMBER EATON: No.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

9 BOARD MEMBER JONES: Matt Cotton.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

11 BOARD MEMBER MEDINA: None to report at this
12 time.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

14 BOARD MEMBER PAPARIAN: Brief conversation with
15 Bob Judd regarding biomass.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you.
17 Senator Roberti?

18 BOARD MEMBER ROBERTI: Yes, I spoke to Don Gamblin
19 and Denise Delmatere of NoCal regarding the agenda item.

20 CHAIRPERSON MOULTON-PATTERSON: And I have none.
21 We are on item No. 6.

22 MS. NAUMAN: Good afternoon, Madam Chair and Board
23 members. Item No. 6 is consideration of an adoption of
24 emergency regulations of putrescible waste.

25 This is a topic that you considered at your

1 January meeting, at which time we talked with you about some
2 options that had developed through the efforts to do
3 stakeholder workshops. And at that time you did give us the
4 directions.

5 So we are coming back this afternoon with a
6 proposed reg package that reflects the direction that you
7 gave us at the January meeting and asking your consideration
8 to adopt these as emergency regulations.

9 We have had a number of conversations with various
10 stakeholders about some remaining concerns, and I am going
11 to ask Bob Holmes to review with you the package that you
12 have in front of you and to highlight those issues that
13 still raise some questions for the stakeholders.

14 MR. HOLMES: Good afternoon, Madam Chair and Board
15 members. There are four areas that I would like to bring to
16 your attention with regard to the proposed reg text.

17 One is that as drafted, the text would not allow
18 someone who might become immediately impacted or effected by
19 these regulations -- once adopted and approved, they would
20 be immediately subject to the permit requirements, and,
21 therefore, we would suggest an action similar to what we did
22 with the nonhazardous, non-putrescible industrial waste and
23 ask that administrative law provide a delayed effective date
24 for the regulations so that someone who was effected would
25 have that time period to get their permit in order.

1 The second item is one that we touched briefly on
2 in agenda item 10 today, and that is the interface between
3 the two. That is the interface between this package, which
4 would place regulatory control through the transfer and
5 processing regs with the package for the -- as we call them
6 now, the compostable organic materials or the composting
7 regs.

8 And I wanted to point out one issue, one specific
9 issue with that regard. Currently the way the mechanics
10 works is in the -- on page 1 of your draft text for the
11 transfer and processing regs, attachment 1 to agenda item 6,
12 beginning in line 10, the regulatory tier requirements of
13 Sections 17403 through 17403.9 are not applicable to
14 operations and facilities that are expressly addressed in
15 regulations elsewhere in this chapter.

16 So that means these transfer and processing regs
17 are not applicable to activities that are expressly
18 addressed elsewhere, i.e., the composting regs. We want to
19 make sure that -- because "expressly addressed" may mean we
20 talk about them and say that we are exempt to regulation or
21 not subject to regulation. We don't want that to be the
22 case. We want to change the words "expressly addressed" to
23 "regulated by." Therefore, if they are not regulated by
24 the composting regs, they would be regulated by these regs.
25 That's going to clean up that interface.

1 The third issue has to do with the definition of
2 putrescible waste, which appears on page 4, beginning on
3 line 27 of the draft language. Per your direction last
4 month to tighten the definition of putrescible waste, we
5 have added the underlying text there, and that underlying
6 text has raised some eyebrows with interested parties. And
7 we understand that there is at least one proposal to adjust
8 that definition that you will hear from the speakers after
9 we complete the staff presentation.

10 Then the fourth item, last item, has to do with
11 the 10 percent number, which is an existing number but would
12 now make facilities that accept putrescible waste count
13 towards that residual, that's the 10 percent part or
14 two-part test. We understand as well that some folks are
15 not comfortable with that number and have a counterproposal
16 to that number.

17 That concludes my brief setup. And I'll be happy
18 to answer any questions.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any
20 questions before the public comments?

21 Mr. Jones?

22 BOARD MEMBER JONES: Just want a clarification.
23 The time delay would be, like, for the community recycling
24 down in Sun Valley where they have got an existing facility
25 that's operated under an exclusion and now these regs will

1 include them to the process, and that's going to take time
2 to get through CEQA?

3 MR. HOLMES: Correct, for someone such as
4 Community Recycling that would be drawn in by this action
5 and a permit would be required to allow them to get that
6 permit.

7 MS. NAUMAN: Mr. Jones, that is something that is
8 not necessarily reflected in the language of the
9 regulations, that the stakeholders are interested how this
10 happens. It is through direct communications with the
11 office of administrative law, going through their review
12 process that we indicate to them the effective or operative
13 date of the package.

14 So it is our intent to provide anyone coming in
15 under this regulatory umbrella to be given time, and we'll
16 probably specify -- I think it is 90 days or 120 days,
17 something of that type. Whatever it takes to go through the
18 process ensuring there's adequate time for CEQA. That would
19 be the intent. Not to say there's emergency regs and day 30
20 you are in, and all of a sudden you are out of compliance.

21 BOARD MEMBER JONES: Would the treatment be
22 different for an existing facility that's been operating
23 without problems under an exclusion as opposed to somebody
24 who wants to start up? Would they have the benefit of
25 starting up outside of these regs and not have to deal with

1 it?

2 It seems to me we ought to tighten it up to say if
3 it was an existing facility operating under an exclusion and
4 got included, they would get whatever time it took to go
5 through CEQA as opposed to inviting new people into the
6 marketplace that could take advantage of having never
7 operated and try to get in under here. I think we ought to
8 make that determination.

9 MS. NAUMAN: I'd defer to Elliot, but we are
10 nodding at each other that conceptually we agree with that.

11 MR. BLOCK: Unfortunately we have some limitations
12 on our ability to either grandfather facilities in or
13 provide -- the phrase popped out of my head. Grace
14 periods. That's why, in fact, with the class one regs we
15 did the delayed effective date. Unfortunately, we have
16 looked at that before, and we don't remember any way, given
17 some of our statutes, that we can essentially grandfather in
18 this facility given the grace period. That's why we are
19 looking at the delayed effective date.

20 If you are talking about somebody who, based on
21 the Board decision this month, next month, suddenly tries to
22 start up a facility very quickly, do the same thing, I am
23 not sure there's a way we can get to that.

24 BOARD MEMBER JONES: It seems like you are trying
25 to accommodate somebody that has been operating for nine or

1 ten years, and there may be some others out there. Every
2 time we take away an exclusion, we find people are displaced
3 or put into the regulatory -- we did it with our tires and
4 had people that were suddenly violators of the law when they
5 had been operating under an exclusion for 15 years. That's
6 my only concern. I think we can write a stipulated order
7 and try to get it worked out.

8 MR. BLOCK: Just for clarification, I heard about
9 that particular facility, I think, Thursday of last week.
10 And to the extent that the issue is one of an exclusion
11 that's being taken away, I don't believe that this
12 particular package before you in this writing takes away any
13 of our exclusions. Our intent is to embody the decision
14 that the Board made six or seven months ago.

15 Now, if there's another exclusion they were
16 relying on from a different regulations package, and perhaps
17 there's a little more than that, maybe there's some
18 confusion over the composted regs package, we can look at
19 that and see if there's another way of dealing with this.
20 But in terms of these particular regs, the only alternative
21 we have right now is the delayed effective date.

22 CHAIRPERSON MOULTON-PATTERSON: Any other
23 questions?

24 Okay. Sean Edgar.

25 MR. EDGAR: We own 20 compost facilities here in

1 California. I am here in my capacity representing them as
2 well as offering the beginning of comments on behalf of the
3 solid waste industry group lobbyists comprised of the
4 majority of industry here in the state.

5 I would like to briefly talk about the topic and
6 ask the Board's indulgence that Mr. Chuck White be allowed
7 to follow me. What we'd like to do is talk about our prior
8 discussion on agenda item 10, specifically Senator Roberti's
9 comments asking for clarity with regard to the compostable
10 organic material.

11 We believe that the action before the Board today
12 should be based in large part on what the OEL process is
13 looking for with regards to clarity, necessity, authority
14 and consistency, and we believe that our position to support
15 option No. 2, which is before you today, which is to modify
16 and adopt the regulations, is appropriate, and we'd
17 appreciate your indulgence to allow us to explain that.

18 I would also like to echo Mr. Gamblin's comments
19 from NoCal Waste Systems. As the regulated community, we
20 are here to tell you we are not afraid of regulation. We
21 are here to tell you that we are supportive of efforts to
22 have a responsibility in all facility operations and
23 appreciate your working with us and staff's working with us
24 to do that.

25 Mr. Cumming in the audience who has a particular

1 facility in his community, which was not necessarily subject
2 to a local process which he felt sufficient, the facilities
3 which are permitted and operated by our member companies in
4 large part are done through a local process. We encourage
5 local process and believe that that weeds out many of the
6 problems that was evidenced in discussions last year in the
7 San Bernardino County situation.

8 That having been said, we believe that modifying
9 the package that you have before you today to limit the
10 amount of putrescible waste which is allowable to be
11 transferred in facilities is appropriate and consistent with
12 this Board's decisions on the Cal Biomass.

13 In particular, the solid waste industry group has
14 a history of addressing in the development of the two-part
15 test. Starting in 1995, industry was supportive at that
16 time to a third part to the two-part test which is what we
17 are proposing today, in that we further look at the issue of
18 the putrescible component of the 10-percent residual. And
19 we are offering today a 10-percent of putrescible of the
20 10-percent residual. That will translate into 1 percent of
21 the total volume of the material coming into a given
22 facility being allowed to be putrescible.

23 So 1 percent total incoming is our thought. That
24 has consistently been our position regarding significant or
25 diminishable amounts of putrescible waste coming into the

1 facility.

2 Furthermore, with regard to the existing
3 putrescible waste definition staff has proposed adding
4 additional language in this. We believe that the existing
5 putrescible definition providing that rapid decomposition of
6 the materials, which specifically falls out food waste,
7 which is the primary concern. However, other materials are
8 putrescible.

9 There is a performance standard giving LEAs under
10 the existing definition to determine what creates nuisance
11 and what does not. We believe that's sufficient so we do
12 not support the additions to that putrescible waste
13 definition.

14 Finally, we are asking that the residual
15 definition be kept as proposed, and that proposal -- we add
16 to that proposal language before you to include language to
17 the effect that putrescible waste incidental but not
18 exceeding 1 percent of the total amount into a given
19 facility, we ask that that language be added as well.

20 So we appreciate your opportunity to speak. And
21 with your indulgence, I would like to ask Mr. White also
22 continue on some of the history of the industry's position
23 in this matter, if I may.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

25 Mr. White?

1 MR. WHITE: Thank you, Madam Chair. Chuck White
2 with Waste Management, also with the Solid Waste Industry
3 Group that has been meeting obvious proposed regulatory
4 changes.

5 The two areas that Sean mentioned that we would
6 like to see further modified in your proposal, No. 1, is the
7 putrescible waste definition.

8 No. 2 is the percentage of putrescible that should
9 be allowed for our recycling facility to be exempt. With
10 the perspective definition of putrescible waste, let me take
11 a moment to read that to you. It is on page 4 of the agenda
12 -- of the proposed regulation starting on line 27.

13 The existing putrescible definition of putrescible
14 waste says putrescible waste includes wastes that are
15 capable of being decomposed by microorganisms with
16 sufficient rapidity as to cause nuisances because of odors,
17 vectors, gases or other offensive conditions and include
18 materials such as, but not limited to, food waste, awful and
19 dead animals. Then the proposal before you goes on to
20 suggest additional materials that should be added to explain
21 or further say they are part of putrescible waste or are
22 not.

23 Our feeling is that the current definition is
24 adequate in that it gives a clear indication of the
25 circumstances by which a material would be considered to be

1 putrescible waste.

2 In the event of odors, vectors or other types of
3 nuisance conditions, the three categories that are already
4 listed, food waste, awful and dead animals are clearly
5 putrescible under all circumstances. Some of the other
6 materials that have been listed may be putrescible in
7 certain circumstances, but may not be putrescible, primarily
8 based upon the amount of moisture that is associated with
9 them.

10 So rather than provide further confusion, we think
11 that the proposed language should be dropped and just rely
12 on the existing language. We think that is sufficiently
13 broad and clear enough that an LEA should be able to make a
14 clear determination when they are in the field as to whether
15 or not they are dealing with putrescible waste rather than
16 adding to that definition a series of terms that may or may
17 not be putrescible in all conditions.

18 Secondly, I want to elaborate on the kind of the
19 history behind the two-part test, and where we've been with
20 respect to a suitable amount of putrescible. I have given
21 you a copy of a letter that a number of us sent earlier or
22 middle of last year, on August 10, when the issue first came
23 up.

24 It still is relevant, I think, although some of it
25 deals with the San Bernardino facility that was up for

1 discussion at the time. This letter is signed by
2 representatives of Waste Management, Weyerhouser, Jefferson,
3 Republican Services, NoCal Waste Systems, the Institute for
4 Recycling Industry, California Refuse Removal Council and
5 Allied Waste.

6 This letter basically -- tries to articulate what
7 was going on when the Board back in '95 first adopted the
8 two-part test. Early in our discussions there was
9 consideration of whether or not it actually ought to be a
10 three-part test.

11 The two-part test, as you know, currently is the
12 separation of materials, and two, the allowable amount of
13 residuals that comes out the back end of the facility. But,
14 also, there was consideration at the time as to whether or
15 not there would be a third part that is the percentage of
16 allowable putrescible.

17 And in the staff report I would like to read that
18 to you, on October 4, '95, staff report when the two-part
19 test was first being developed. It basically says that the
20 staff recommended that the Board impose a limit on the
21 amount of 24 -- the amount of putrescible waste handled at
22 recycling operations in addition to the limit of total
23 waste. As a result of a site visit, they said this was not
24 necessary. Susceptible quantities of putrescible waste --
25 those susceptible to rapid decomposition were not observed

1 at visits.

2 In fact, the presence of putrescible waste is a
3 key indicator that adequate source separation has not
4 occurred. The key thing here I think is the fact that at
5 the time the two-part test was developed there simply
6 weren't any facilities around that were processing
7 significant quantities of putrescible waste. Or if they
8 were around, they weren't raising their hands very high.

9 I would like to take a moment to just take some
10 excerpts of Board member and public testimony that was given
11 a little bit later in 1997. One by present Board Member
12 Jones that says we were assuming that putrescibles were
13 insignificant in the level of residual. Clearly with regard
14 to putrescible, it was widely understood by all Board
15 members at the time, the amount of putrescible was very low,
16 not the 10 percent, but a portion, very small portion of the
17 residuals.

18 Former Board Member Rellis, in addition, we were
19 looking at material coming, in a 10-percent residual going
20 out but not putrescible. Putrescibles was not considered to
21 be the 10 percent.

22 And Larry Sweetser stated that everybody seems to
23 agree that if you have 100 percent putrescible in the 10
24 percent, you have got a problem out there. But nobody has
25 been able to figure out the exact measurement of that

1 putrescible limit.

2 And then Weyerhouser said residual is not
3 putrescible waste. Then Rellis came back, I think we are
4 all of one mind. If they received it -- and I think I see
5 heads nodding from the paper folks that clearly if they
6 received putrescible waste, they would be in agreement they
7 would need to come to us for a permit, any amount of
8 putrescibles. Clearly the intent of the Board at the time
9 was to -- assuming that virtually no significant amount of
10 putrescible materials would be contained in materials that
11 are eligible for the recycling centers under the two-part
12 test.

13 Although no one could agree on the acceptable
14 level, whether zero percent or one percent or half a percent
15 or three or four percent, there's a number of concerns about
16 accurate measurement of a particular percentage level.
17 There was considerable testimony and almost virtual
18 unanimity that the presence of any significant amount of
19 putrescible waste was adequate that any source separating
20 had occurred.

21 And nobody at the time was proposing or suggesting
22 that the two-part test applied to anything other than
23 insignificant amount of putrescible waste. It does not
24 apply to significant amounts of putrescible waste. The
25 Board concluded in September of 1998 with the assumption

1 that putrescible waste was not present in any material that
2 is eligible for exemption under the two-part test.

3 And basically this is the arguments that we
4 believe are relevant as we discuss this matter today, and we
5 believe that the Board should continue and only allow
6 insignificant quantities, or one percent, we think, in the
7 SWIG group as an appropriate level or insignificant
8 quantities or nothing more than 1 percent ever to be
9 eligible for exemption under the two-part test.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 Next we have Don Gamblin.

12 MR. GAMBLIN: Good afternoon. Just to express our
13 like-minded thinking with Mr. Edgar and Mr. White on those
14 recommended changes and a couple other points to be made,
15 100 percent residuals, let's say you have 1,000 tons per day
16 facility operating and allow 10 percent, that's still 100
17 tons per day of potential food waste.

18 So our recommended change to reflect, I think, the
19 Board's intent on the California Biomass permit decision,
20 and that is a recycling center, is not really designed nor
21 intended to be used for food waste or putrescible. So we
22 really need to target this specifically and say, "Hey,
23 putrescible waste, it can be incidental to some of these
24 organizations, that it may come in periodically but in no
25 way should be over 1 percent of the total of the facility."

1 As well as the putrescible definition, I think
2 along the lines of Senator Roberti's words earlier with the
3 compostable organics material, sometimes when you try and
4 change a definition to be more inclusive, you also end up
5 being more exclusive, too, and that it is a definition that
6 works well for LEAs to have the ability to come in and
7 decide what is putrescible and what is not. They are the
8 experts in health fields and putrescible waste, and the
9 current definition allows them the flexibility that's
10 needed.

11 We are glad to see this regulation coming
12 forward. Now, the timing is important. Cities and counties
13 are working to get the last 5, 10, 15 percent of diversion
14 organics is certainly a target. This is the time for it to
15 be brought forward.

16 And then, finally, just a thought here or
17 suggestion, and that is how to address facilities that all
18 of a sudden find themselves needing a permit. They are no
19 longer a recycling facility. I thought it would suggest
20 perhaps somewhere along the lines of the permit enforcement
21 policy where the regulation becomes effective now, but those
22 facilities that need a permit are issued an order by an LEA
23 with specific deadlines or actions that need to be taken to
24 come into the realm of the proper permit.

25 It is something similar to when the Board back in

1 the early '90s adopted the permit enforcement policy where
2 regulations changed and made some permits for other
3 facilities ineffective or not definitive enough to be able
4 to enforce, and the permit enforcement policy was used to
5 bring people in line. The regulation would be adopted
6 immediately, and we wouldn't have the facilities trying to
7 get up and operating real quick without the regulatory or
8 permit requirements right now.

9 Anyway, just a thought there. With that, I will
10 close. Thanks.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
12 Gamblin.

13 Paul Ryan. Next we'll have Larry Sweetser.

14 MR. RYAN: Madam Chair, I am representing CRC
15 Southern District, and also Inland Empire Disposal. I
16 concur with the other members of the industry on this
17 matter. I think the changes that industry have proposed
18 will help clarify several issues.

19 I believe recently in one of the communications I
20 brought to the Board's attention was the fact that what we
21 are finding in some of the facilities that have residuals,
22 oftentimes if you set a threshold too high, such as 10
23 percent, in some of the studies and observations I have made
24 for cities, we find where various haulers and operators take
25 materials to facilities when you actually count up the

1 tonnage and compare it with the original tonnage at the
2 collection -- or at the curbside, and then you follow up on
3 the residuals that's over 10 percent.

4 Certainly this regulation helps level the playing
5 field, and I think it is something that needs to be put in
6 place. I would hope that the Board consider this matter
7 today and take action. Thank you.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,
9 Mr. Ryan.

10 Larry Sweetser. And next will be Stewart
11 Cumming.

12 MR. SWEETSER: I am here on behalf of the
13 Environmental Services Joint Powers Authority, a 21-member
14 rural county association, and I am joining those supporting
15 the simplicities of keeping the original putrescible
16 definition.

17 It is kind of funny sitting in the back of the
18 room listening. After all these years I am still trying to
19 find my infamous banana peels out there. It was how many
20 banana peels do you need in a load of what we called at the
21 time stuffed in a box before you put it into a higher tier
22 of regulation. We are still trying to debate that one
23 issue.

24 Changing the definition would not help that at
25 all. Particular concern that we have had is with the new

1 definition would be inadvertently hopefully capturing those
2 operations where they have incidental amounts of green waste
3 since putting the new green waste in that term in that new
4 definition could include inadvertently capturing all the
5 collection sites just because you had a few amounts of green
6 waste, leaves or pine needles in that load. So the existing
7 definition of putrescible would address that issue.

8 We also support the residual definition, and also
9 would support limiting the amount of putrescibles in the
10 definition of the total amount of material received. Thank
11 you very much.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.
13 Stewart Cumming.

14 MR. CUMMING: Good afternoon, Madam Chair and
15 Board members. Couple of things. Hopefully I won't take
16 too much of your time.

17 First of all, the existing definition of
18 putrescibles, I am going to disagree with the rest of the
19 people and say that it is inadequate. The proposed change,
20 I think, is much more inclusive of materials that are, in
21 fact, putrescible. Grass clippings are putrescible waste.
22 They are not just green waste, and they have a potential for
23 causing a myriad of problems. And, yes, some of that is
24 dependent on moisture content, but I think I can point out
25 to all of you that you have thrown glass clippings in your

1 green waste receptacle, and they sat there for four or five
2 days before collection. And you certainly can tell the
3 difference from the day you put them in there until day four
4 or five when you open that container again.

5 Also, too, something that I haven't heard
6 mentioned in dealing with putrescible and organics is the
7 lag time between the time these materials are actually
8 discarded at the source and the time that they are collected
9 and taken to a transfer processing station.

10 Most of these materials in the organics category
11 are in moderate to advanced states of decomposition at the
12 time they are picked up and moved to a transfer facility.
13 They are presently going through decomposition at a very
14 rapid rate.

15 I have taken stuff and put it in my waste can on
16 Wednesday. It doesn't get picked up by the City for a full
17 week, until the following Tuesday. And, again, like I said,
18 these materials are in a very good state of decomposition at
19 the time they are picked up. And we are talking about the
20 time limit that we allow stuff to sit on the site. I think
21 48 hours is the maximum that those materials should be able
22 to sit there. Twenty-four hours would suit me better, given
23 the advanced state of decomposition that some of these
24 materials are in at the time they are collected.

25 Contradiction we have on page 4 in your definition

1 of putrescible is that you do throw in grass clippings and
2 leaves under putrescible, but then you exempt yard
3 trimmings. I think that that's contradictory since yard
4 trimmings include grass clippings and leaves. So you might
5 want to omit yard trimmings or switch it around to tree
6 trimmings or something like that so you are a little less
7 contradictory in what you define as being a putrescible.

8 Also, too, and lastly, this is a major point for
9 us, it doesn't appear to us that you closed the loophole
10 that was attempted to be gone through back in August at the
11 appeal hearing we were at in which you talked about residual
12 and source separated waste and separated for reuse. If you
13 have got a hauler who is taking to a transfer facility only
14 putrescibles, and you define all putrescibles as residual,
15 is his waste stream because of his putrescible all residual
16 that doesn't -- residual means stuff left after processing
17 not stuff being transferred to process.

18 Also, too, you are going to wind up with that same
19 argument back here if you don't -- under separated for reuse
20 and source separated exempt putrescible waste from those
21 definitions. In other words, any amount of putrescible, no
22 matter what the source generation is, needs to be
23 permitted. It needs to be regulated by the Board.

24 Just because it is put in a green can or just
25 because it is put in a special can behind the restaurant

1 shouldn't exclude the handling of those wastes from
2 regulation or even give it the possibility that it be
3 excluded from regulation. And right now source separated
4 and separated for reuse doesn't omit putrescible from
5 falling under those definitions.

6 I would suggest that you just throw a line in
7 there to delineate that. As I heard industry say, it was
8 never intended that putrescibles be something going to a
9 recycling center. It was always intended that putrescibles
10 would be something that would be regulated by the Board. I
11 would agree with that.

12 I would think that it is significant problems they
13 do pose, throwing them into that regulatory tier. I, too,
14 would support the industry standards that anything more than
15 1 percent should fall under a regulatory tier.

16 With that said, thank you for your time.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you,
18 Mr. Cumming.

19 Matt Cotton.

20 MR. COTTON: Good afternoon, members of the
21 Board. Matt Cotton representing Community Recycling. Some
22 of you received this fax. The rest of you should have
23 gotten it in overnight mail. If not today then tomorrow.

24 As you know, Community Recycling has developed one
25 of the most innovative diversion programs in California, if

1 not the United States. I just wanted to highlight the fact
2 that that is a public sector independent solid waste
3 handling operation. It is a little bit different.

4 We would like to ask to delay this action on this
5 issue primarily for two reasons, one of which is the time
6 issue which Steve addressed, and I believe can take care
7 of.

8 It is very difficult to suddenly regulate the
9 unregulated and not give them enough time to accommodate
10 that. I think it would be very thoughtful of the Board to
11 provide adequate time for unregulated facilities within this
12 contract to come up to regulation.

13 Unlike what has been said earlier, I don't think
14 the independent composting world is afraid of permits, but I
15 think we should have adequate time to come into compliance.

16 The second part, I know a freight train when I see
17 one. I will say, with all due respect, green waste and food
18 waste primarily to encourage diversion coming off the
19 strategic planning session we had last week and getting
20 toward sustainability, if we are going to encourage
21 diversion and recycling, which takes food waste from over
22 1,000 grocery stores with private money and private
23 initiative to meet the diversion goals, I think we have to
24 recognize that green waste and food waste are and should be
25 treated differently.

1 We are not afraid of regulation. We are not
2 afraid of permitting. Yes, there should be some oversight.
3 I think Mr. Collins made some good points, and the other
4 speakers, but it is the level of regulation we are concerned
5 about.

6 Should green waste and food waste transfer station
7 be according to the same exact level of regulation as a full
8 solid waste transfer station? We don't think so. I guess
9 the last part on that is just we don't know what we don't
10 know as far as trying to create new diversion programs.

11 I don't want to see the Board put itself in a
12 place where we are going to be stifling diversion based on a
13 perceived public health problem that isn't there. Right now
14 we are not having problems handling food waste. The places
15 like NoCal are doing a great job handling this material.

16 I don't want to stifle. As Mr. Gamblin mentioned,
17 we are going to have to be looking to food waste and
18 organics for the diversion for the next five years. I don't
19 want to stifle that. I don't want to say it should be
20 deregulated, but we should be careful how we regulate it.

21 CHAIRPERSON MOULTON-PATTERSON: Chuck Helget.

22 MR. HELGET: Madam Chair, Chuck Helget
23 representing Allied Waste. I guess I am the caboose on the
24 train. I think so. This should be the last series of
25 comments from the industry's perspective.

1 We support your efforts to tighten the definition
2 of putrescible waste and also support staff option two with
3 further recommendation that the Board adopt regulations
4 today, with the changes proposed to you by Mr. Edgar and
5 Mr. White, and I am not going to go through those again.

6 With comments from the speaker, previous two
7 speakers, we have proposed that the putrescible waste
8 definition and the current regulations be maintained. We
9 propose that because we believe in the example of grass
10 clippings would indeed be included if, in fact, you had wet
11 grass clippings and they were putrescible and they would be
12 covered by the existing regulation.

13 So we think it is a fairly encompassing
14 definition. We have talked about this in detail. And with
15 regard to the previous speaker, we do believe that the
16 industry needs to be regulated. I think there needs to be
17 consistency in that regulation, one to protect the industry,
18 not to stifle it but to ensure that we have a good clean
19 operation, good clean diversion programs.

20 And with that, that is the end of my comments.

21 BOARD MEMBER ROBERTI: This definition is probably
22 the most complex definition in our whole list of
23 definitions. What I am wondering, why can't it be defined
24 in the affirmative rather than in the negative? We seem to
25 back our way into the definition. We are talking about

1 material that has been separated for reuse first, then we
2 take a percentage of that and then we take a percentage on a
3 percentage of that, and we are discussing putrescible waste
4 that is separated for reuse, but I guess is still used for
5 composting.

6 The long and short of it is why can't we say -- I
7 am not suggesting we say this. I just want to know why
8 can't we say that if a facility handles X percent, say 10
9 percent putrescible waste, it cannot be considered a
10 recycling center?

11 Isn't one of the issues just the amount of odor,
12 stink, whatever, that goes into the so-called recycling
13 center that's the problem? And if that's the problem, why
14 can't we define it in the affirmative? I am asking a
15 question. I am not asking a rhetorical question.

16 MR. HOLMES: If I understand the question
17 correctly, I think that's what we are attempting to do.

18 BOARD MEMBER ROBERTI: No, I don't think so.

19 MR. HOLMES: First of all, we are touching on, or
20 playing with the definition of putrescible. I know that's
21 not your question. But what we're saying, then, is that
22 existing transferring processing regs says if the residual
23 amount of waste of the total waste coming in is greater than
24 10 percent of that total, then you are not a recycling
25 center.

1 BOARD MEMBER ROBERTI: Why can't we say that you
2 are not a recycling center if you accept X percent of
3 putrescible waste, and, therefore, you need a permit? I am
4 not giving any percentage. I am just trying to get an
5 answer here. Why are we going through this terribly
6 incomprehensible, at least I am willing to admit that it is
7 terribly incomprehensible, definition and actually seem to
8 be adding another part to it?

9 MR. BLOCK: Actually, the answer is that we could
10 do it that way if that were the direction we got from the
11 Board.

12 BOARD MEMBER ROBERTI: Why wasn't it done that
13 way? If there is no good reason, then I am going to suggest
14 that.

15 MR. BLOCK: Basically we brought this forward to
16 the Board last month with a series of choices, both in terms
17 of the definition of putrescible waste and also the
18 percentages based on the direction of the Board last month
19 that we were going to use the definition that included green
20 waste as well as food waste, and that would allow up to 10
21 percent. What we tried to do was change --

22 BOARD MEMBER ROBERTI: Aren't green waste and food
23 waste both considered putrescible right now?

24 MR. BLOCK: Yes, although I think some of the
25 speakers that had come up would argue it was green waste

1 depending on moisture content. That's one of the issues.

2 BOARD MEMBER ROBERTI: Nothing smells worse than
3 cut grass after a couple of days.

4 MR. BLOCK: The short answer is we could simplify
5 the way this is written if the Board's direction was
6 essentially to not add green waste specifically as an
7 example to the current definition of putrescible. And if
8 the Board just wanted to set an absolute limit, we could
9 write the regulations that way.

10 The proposal before you was based on the direction
11 we got last month. We were trying to make as few changes to
12 the existing structure as possible. The proposal that's
13 coming before you is essentially separate. I mean, we could
14 write it certainly separately.

15 BOARD MEMBER ROBERTI: It is generally my
16 intention, as it was on item 10, that in hearing this, it is
17 inordinately complex.

18 MS. NAUMAN: Just another point of view. What you
19 have before you are proposed amendments to an existing set
20 of regulations. So we were not starting from ground zero in
21 trying to address the Cal Biomass.

22 BOARD MEMBER ROBERTI: I understand that. Please,
23 I am not being critical. I am just trying to find out.

24 MS. NAUMAN: We were building on other awkwardly
25 drafted regulations. If you did take the perspective that

1 these are complicated, they are, but they have been in place
2 for some time, and the proposed amendments just build on
3 that existing set of transfer processing regulations. And
4 if it is your direction, we can rewrite the entire reg
5 package, not just the amendments that you have before you.

6 BOARD MEMBER ROBERTI: I am nervous about doing
7 that, too. I don't think I want to vote on this today
8 without being shown an option how simpler language would
9 help us out to a more comprehensible future. This
10 regulation is terrible, terribly convoluted. And I have a
11 hunch if someone tries to explain it, everybody will have a
12 different explanation. I understand our instructions.

13 MS. NAUMAN: Another possible approach might be to
14 move forward based on the decisions you want to make with
15 respect to the term that you have heard with this as the
16 emergency sets so we can at least get something in place
17 that responds to the Cal Biomass appeal decision, and then
18 start another regulatory package to rewrite the transfer
19 processing regs if the Board believes that we should take a
20 different approach.

21 CHAIRPERSON MOULTON-PATTERSON: While we are
22 thinking of that, we have one more speaker, Mike Mohajer.

23 MR. HOLMES: Madam Chair, when Mr. Mohajer is
24 finished, there is one other stakeholder that I am aware of
25 that tried to get a letter to you, and I don't think it made

1 it to you, so I would like to address that.

2 BOARD MEMBER MEDINA: How soon would you expect to
3 come before us with emergency regulations -- or with regular
4 regulations, if we pass these today?

5 MS. NAUMAN: I guess I ask which set. If we were
6 to do the emergency regulations today, then we would have
7 two options. One is to come back with the -- called the
8 permanent regulations that looked very much like this draft
9 that you have in front of you.

10 That would obviously take less time than if after
11 action today on the emergency set you asked us to bring back
12 permanent regs that took the simplified approach that the
13 Senator was talking about, because that would involve
14 redrafting the entire package, not just taking the emergency
15 package and turning it into a permanent package. Two
16 different tasks.

17 BOARD MEMBER MEDINA: Can you give me a ballpark
18 on each one? Maybe Elliot can help there.

19 MR. HOLMES: It would depend on how much input we
20 seek from the stakeholders. We would probably want to do
21 some workshops, so we are talking, I think, a minimum of 60
22 days.

23 MS. NAUMAN: I think maybe let me pose the
24 question more from a programmatic perspective. Normally
25 when we have a major set of regulations and then we turn

1 those into permanent regulations, the question is how much
2 time does staff need to prepare that package to bring it
3 back to the Board to start the formal process on the
4 permanent set of regulations, assuming that there's no
5 changes in text. So that's probably two to three months.

6 I would expect that if your direction was to come
7 back with a permanent set of regulations, rewritten in the
8 tone and style that the Senator is talking about, that would
9 probably be adding, I'd say, two or three months to the
10 process because we would probably then want to review those
11 language changes with the stakeholder groups to be sure that
12 in the translation we didn't miss something or inadvertently
13 create something.

14 MR. BLOCK: Let me just add a historical
15 perspective in the sense that obviously it will depend on
16 exactly how extensive of a revision you would be talking to
17 for these regulations. So it is difficult, obviously, to
18 give you a ballpark.

19 But the regulations that you are looking at in
20 front of you, I can tell you the policy that ended up being
21 the two-part test, depending on your -- depending on which
22 years you counted, took somewhere from two to four years to
23 develop. And the regulatory package they are in took
24 somewhere between one to two years.

25 So in estimating how long it would take, if it

1 were talking about a few more tweaks to the emergency regs,
2 again, I think the estimates that you got are pretty good.
3 If we are talking about revising a way this is structured to
4 be more simplified, there's a reason that it looks the way
5 it looks.

6 It may not be the most intuitive type of document,
7 but that's based on the input we got over quite a few number
8 of years in an attempt to try to provide and respond to the
9 input from everybody that we got. Just for context
10 purposes, that doesn't mean we are talking about a narrower
11 revision to this, that it couldn't be done in the time frame
12 that we have given.

13 MS. NAUMAN: From a management perspective, I am
14 also trying to work with the staff to process about a dozen
15 regulations that are on the rulemaking calendar that you
16 approved just a few months ago. We have time lines on each
17 of those, and that would have an impact on our ability to be
18 able to complete those packages as well.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you. I
20 apologize.

21 MR. MOHAJER: My name is Mike Mohajer again, Los
22 Angeles County. I am coming somewhat from a different
23 perspective. I just want to let you know what LA County
24 Public Works does and why this may impact us.

25 First of all, we do the tree trimming for the

1 unincorporated area and several contract cities. So
2 anything that would impact the tree trimming certainly calls
3 on us. That's from one point of view.

4 Secondly, as we are adopting this emergency
5 regulation and ultimately the final regulation, even though
6 I personally support the regulations, although I am not in a
7 position to talk on behalf of County at this point, these
8 regulations will be impacting as part of the permitting
9 process they have to be vested in a non-disposable element
10 of the jurisdictions.

11 If so, is that requirement applicable during the
12 period that the emergency regulations are in place, but
13 because there are places before me and a few facilities that
14 are calling themselves a salvage operation that the proposed
15 regs may become applicable to them. That would be one of
16 the questions as far as applicable during the emergency
17 period.

18 Going back to the questions as far as the
19 putrescible waste, and if this new definition that's
20 provided on page 4, the area that I have concern, it says
21 putrescible waste is the underlying portion. On page 30
22 says putrescible waste also includes grass clippings, leaves
23 and picking up the emphasis of the word "leaves." And then
24 you go line 31, it reads but does not include materials such
25 as brush, yard trimmings. All the yard trimmings that we

1 have it has leaves on them.

2 So you can see I am confused in the definition it
3 is giving us. Senator Roberti mentioned which direction the
4 regulated community has to turn. So my recommendation is
5 should you go and try to redefine it, it has to be really
6 clear as to what exactly what a definition of putrescible
7 waste is so it would not create more confusion from my
8 standpoint, being the public agency responsible for the tree
9 trimming and street sweeping and that sort of thing. It is
10 going to create more problems than it is worth. Thank you
11 very much.

12 MR. HOLMES: Very appropriate segue. The contact
13 that I had last week, and again this morning, was from the
14 City of LA and had very similar concern that grass clippings
15 is included in the definition and would subject many of
16 their collection processes to these regulations, and they
17 were opposed to that and were asking that the Board delay
18 their decisions because of that reason.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you for
20 bringing that up.

21 Okay. Mr. Paparian?

22 BOARD MEMBER MEDINA: A few other questions for
23 clarification. I have been reading this line 30 to 32 on
24 page 4 as the witnesses have been all referring to it. I
25 think I understand it, but I am not quite sure. It says in

1 the first sentence what it includes and the second half of
2 the sentence what it doesn't include. If you have leaves,
3 for example, that decompose at a rate that does not cause a
4 nuisance, would those be part of the yard trimmings that
5 would be excluded from putrescible waste?

6 MR. HOLMES: I believe the commentators are
7 absolutely right on that. That's convoluted. The intention
8 was the second part of that line, but does not include the
9 following materials. It was the larger load of decomposed
10 material. So more appropriate term than yard trimmings
11 would probably be tree trimmings or arbor trimmings or arbor
12 waste or something of that nature which suggests a larger,
13 slower to decompose material. So leaves would not be
14 included in that?

15 MR. HOLMES: Correct.

16 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

17 BOARD MEMBER ROBERTI: I want to know if I have
18 the definition straight. Right now we have the two-part
19 test. Part two of the two-part test is that the residual
20 amount of solid waste is the material in this -- shall be
21 less than 10 percent of the separated waste, the separated
22 material, that is the recycled material.

23 Now, we are adding the emergency regulation that
24 putrescible waste, in effect, whatever we define as
25 putrescible waste counts as residual waste, am I right?

1 MR. HOLMES: Correct.

2 BOARD MEMBER ROBERTI: However, we are redefining
3 putrescible waste slightly?

4 MR. HOLMES: Correct.

5 BOARD MEMBER ROBERTI: To exempt out these
6 non-nuisance materials such as leaves?

7 MR. HOLMES: According to this definition, the
8 underlying which are additions to existing definition, grass
9 clippings and leaves would be part of putrescible.

10 BOARD MEMBER ROBERTI: Putrescible waste also
11 includes grass clippings, leaves, etcetera and manure, but
12 does not include materials such as brush, yard trimmings.

13 MR. HOLMES: Staff would recommend that yard
14 trimmings be changed to tree trimmings or arbor trimmings,
15 something of that nature.

16 BOARD MEMBER ROBERTI: Tree trimmings. Okay.
17 That makes a little bit more sense. Right now are tree
18 trimmings, brush and logs counted as putrescible waste?

19 MR. HOLMES: I think that's part of the problem.
20 I think in some jurisdictions they are, and some they are
21 not.

22 BOARD MEMBER ROBERTI: But right now putrescible
23 waste which was cycled out for -- which is separated for
24 recycling purposes is counted -- is not counted as
25 residual. Putrescible waste that can be used as compost and

1 is used as compost and is separated out as compost is not
2 counted as residual right now?

3 MR. HOLMES: Probably not because we also have
4 within this package -- the only thing now that it must be
5 counted towards residual is materials that are going on for
6 further transfer of processing or disposal. What we are
7 also doing in this package is adding anything going to
8 composting or storage as defined in current regulations
9 would also count towards the residual.

10 BOARD MEMBER ROBERTI: And that effect of our
11 emergency regulation is to increase by some percentile, I
12 take it, the number of facilities that will need permits.
13 Because we are defining putrescible waste -- we are defining
14 residual waste as including all putrescible waste. Am I
15 right?

16 MR. BLOCK: In theory it would have that effect,
17 of course, up until the Cal Biomass hearing. Last year that
18 was the first time that we actually knew of anybody that fit
19 in that group, and now we have heard of at least one other
20 that we think may be there. There aren't a lot of
21 facilities doing this, which is why the regulations weren't
22 written that well two years ago.

23 BOARD MEMBER ROBERTI: The possibility is that we
24 are more apt to be increasing the number of facilities,
25 whether that is one or two or three that are going to come

1 under permitting than we are decreasing the number of
2 facilities that may be coming.

3 MR. BLOCK: That's correct.

4 BOARD MEMBER ROBERTI: Madam Chair, for emergency
5 purposes I think I can vote for the resolution. However,
6 this is so complex, and I don't think that the regulations
7 through nobody's fault are making anything any clearer.

8 And I think the enforcement of the regulation is
9 going to be so difficult, because how are we going to
10 enforce nuisance waste and all these things? This is all
11 based on apparently a limit that was enforcement powers to
12 go through these complex, rather convoluted regulations.

13 I would hope that we have a meeting with
14 stakeholders involved to come up with something that is more
15 -- that is simpler and more comprehensible. Maybe it will
16 come up with nothing, but at least give it a try. Because
17 to really enforce this three-part test now with a very
18 complicated definition of what's putrescible, then we are
19 going to have a lot more enforcement than we ever have,
20 including lawyers and accountants probably as well as
21 engineering inspectors to try and figure out who comes under
22 a permit.

23 That's just the realm of reality. That's not
24 going to happen. So I hope we give it a college try and
25 come up with a definition that is simpler. Maybe it can't

1 be, but whatever. I intend to vote for it because of the
2 problem we have right now, for the resolution.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Mr. Medina?

5 BOARD MEMBER MEDINA: Madam Chair, on that
6 particular page and that particular Section 30 through 32, I
7 wonder if we might, rather than try to define the materials
8 that are not included, if we could just say there but does
9 not include materials that decompose at a rate that does not
10 cause a nuisance rather than try to specify those, that way
11 if a material comes up and if it does not decompose at a
12 rate that causes an odor, does not cause a nuisance, then
13 you know that you are fine.

14 Because what we are trying to do now, for example,
15 yard trimmings have leaves, brush. What's contained in
16 brush? So I think from my perspective -- this is a
17 suggestion, but does not include materials that decompose at
18 a rate that does not cause a nuisance.

19 MR. HOLMES: The way I see it, there's three
20 options before you with respect to this definition. You
21 heard one option given that we completely strike all of the
22 underlying language. That would be the staff suggested
23 change to that definition to completely strike that and
24 leave it as existing. That's one option.

25 The second option that I mention would be to

1 change just the word yard on line 31, and the term yard
2 trimmings to tree trimmings.

3 Then the third option that Member Medina just
4 suggested is to strike any mention of material types in the
5 second part of that line and just leave materials that do
6 not -- materials that decompose at a rate that does not
7 cause a nuisance.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. For my
9 own clarification you said staff's recommendation was to
10 adopt all the strike outs. Your recommendation was -- what
11 is staff's recommendation?

12 MR. HOLMES: It was the testimony from the
13 stakeholders that suggested to strike it all. From staff's
14 standpoint in terms of what's doable to adjust regulatory
15 language, we can do any of the three. It was your direction
16 last month to -- that the standing definition, the existing
17 definition was too subjective, too broad and that we should
18 tighten it somehow. That's what we attempted to do. So I
19 don't know if that helps much, but we can do any one of
20 those three.

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

22 BOARD MEMBER JONES: Question of staff or
23 Mr. Medina. When we strike out leave the existing
24 definition of putrescible waste and just say that decompose
25 at a rate to not cause -- what parts do you want to strike

1 out of that? Because I just assume strike a bunch of it
2 out, leave the existing there. Part of this is my fault,
3 but I think we dealt with this issue on the second day of
4 the Board meeting at 7:30 at night, and part of this is my
5 fault for taking us here.

6 BOARD MEMBER MEDINA: Then get us out.

7 BOARD MEMBER JONES: I am going to try to. Do you
8 -- strike a bunch of that.

9 MS. NAUMAN: The simplest thing would be to just
10 strike the sentence and leave it with the existing
11 definition and staff is fine with that.

12 BOARD MEMBER EATON: How this arose is LEAs
13 interpreted this differently. I think as we go on we can
14 kind of conform as to what the Board is looking for. With
15 regard to biomass, which is very clear, if it ain't broke,
16 don't fix it.

17 MR. HOLMES: One other way to look at it is an
18 equation. We have putrescible waste times a residual amount
19 we come up with equals the stuff we want to regulate. So if
20 you tighten or strike the definition, the world that you are
21 dealing with, then you can shrink the percentage number and
22 still end up with the same amount of material that's causing
23 the trouble.

24 BOARD MEMBER JONES: That's the other issue I want
25 to talk about, and we had talked about that night, and I

1 think we took a break at 7:30. I think we need to look at
2 the 10 percent of the 10 percent residual. I think that's
3 consistent with where we've been.

4 I think it is easier for LEAs to look at a large
5 pot of material and see some putrescible waste. But I think
6 it also saves the Weyerhousers of the world and the people
7 that are providing processing services under a recycling
8 center for curbside recycling where you have big
9 contamination.

10 That's part of the reason why we have the two-part
11 test. There is a lot of contamination in some of these
12 curbside programs. So I think by just saying they are
13 putrescible is what it would be 10 percent of the 10
14 percent, that would not hurt the Weyerhousers of the world
15 and the people that are taking care of that waste stream,
16 and it clearly tightens up what we are trying to accomplish
17 here with regulating that food waste as it being a health
18 and safety standard.

19 There was one other issue that we had. We had the
20 10 percent. Was there something else that we were trying to
21 deal with?

22 MR. HOLMES: The delayed effective date.

23 BOARD MEMBER JONES: I like the idea of using the
24 process, but that would get into a whole other discussion.
25 But that's actually what it was designed for, was when

1 somebody couldn't get there through no fault of their own,
2 created notice and order and tried to work through it, but
3 we'll leave that to another day.

4 Maybe we just need to look at effective -- making
5 these -- push the date out a little bit. With that, if
6 there's --

7 BOARD MEMBER MEDINA: I want another question of
8 clarification. If we took out the underlying language, 30
9 through 33, and the staff's view would grasp things, would
10 still fall under the definition of putrescible waste?

11 MR. HOLMES: No, it would not be explicit because
12 we are pulling that language back out.

13 BOARD MEMBER MEDINA: Because I thought I heard
14 you say that it would still be the -- this type of stuff
15 that's described in the first sentence, in the existing
16 language.

17 MR. BLOCK: I think that was one of the reasons we
18 were looking at potentially putting that in there if that's
19 what the Board wanted to do. Without mentioning it one way
20 or another, I think some of the speakers you heard earlier
21 talked about grass clippings would be included if it was
22 very wet grass clippings, but not very dry grass clippings
23 and leaves open basically an LEA would be making that call
24 on a case-by-case basis. If a particular waste stream
25 essentially was very wet grass that was decomposing and

1 creating nuisances, that would be included.

2 Where if for some reason if the waste stream
3 happened to be collected a certain way in a certain rapidity
4 so that it was dry and it wasn't creating nuisance issues,
5 it wouldn't be this residual.

6 BOARD MEMBER MEDINA: Subjective view of the LEA.

7 MR. BLOCK: That's one of the consequences of
8 taking that language out of there.

9 MR. HOLMES: Maybe performance standard. So if it
10 was wet and causing an odor and a nuisance, then the LEA
11 could say yes, that's putrescible.

12 BOARD MEMBER JONES: I think that's part of the
13 existing definition. Because it says if it is capable of
14 being decomposed by microorganisms with sufficient rapidity
15 as to cause nuisance because of odors, vectors, gases or
16 other offensive conditions and includes materials such as,
17 but not limited to, food waste, awful and dead animals. I
18 think that gives the LEA -- maybe we deal with this through
19 an LEA advisory and just define what that means.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. White and
21 anyone else? I feel like I should call on Mr. Cumming,
22 too.

23 MR. WHITE: I just wanted to make one point back
24 to the 10 percent of the 10 percent. I think what we were
25 suggesting was 1 percent of the total material handled

1 should not be.

2 BOARD MEMBER JONES: 10 percent of 10 percent is.

3 MR. WHITE: But you don't want to deal with 10
4 percent of the residual only. The other 90 percent that was
5 being processed you would want to consider any putrescible
6 that appeared in that also.

7 I just want to clarify, you don't want to focus on
8 10 percent of the 10 percent. You want to focus on 1
9 percent of the hundred percent.

10 BOARD MEMBER JONES: That's what I was attempting
11 to do.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Cumming, did
13 you have any additional comments?

14 MR. CUMMING: This is sounding really complicated
15 as far as where you are going with this. I agree with
16 Mr. Jones, 1 percent of the total incoming, if more than
17 that it needs to be regulated.

18 But when we talk about what is a putrescible, I
19 wound up being in front of you now for the second time, once
20 on an appeal. I have been dealing with this issue for well
21 over a year and a half as president of my neighborhood
22 association and gone through some very expensive lawsuits,
23 and it is all because you couldn't be clear enough to an
24 LEA. And we are talking about grass clippings, what's its
25 moisture content.

1 I don't see any inspector from an LEA going out to
2 a waste facility with a moisture meter and finding out how
3 much water is in the blades of the grass coming out of the
4 back of the truck. Grass is a putrescible waste. And
5 consequently -- let's put grass clippings there and say that
6 it is putrescible by Cornell University's definition and by
7 the definition accepted almost nationwide by every single
8 composting body. Grass is a putrescible waste.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

10 BOARD MEMBER ROBERTI: Was staff under the current
11 regulations asked about a putrescible waste?

12 MR. BLOCK: It is a difficult question to answer
13 because under the current regulations it is not an issue
14 that comes into play in determining whether or not somebody
15 has really supplied these. In other words, the definition
16 that exists in regulations right now, putrescible waste is
17 not a trigger for whether something is regulated or not. It
18 is the Cal Biomass decision, and these regulations would
19 turn that into a trigger, and so it has never been -- that
20 level of interpretation has never been engaged in because it
21 has never had that kind of an impact.

22 BOARD MEMBER ROBERTI: We never really needed a
23 definition of putrescible waste without these emergency
24 regulations in which, in effect, we are saying all
25 putrescible waste is residual waste, then we need a

1 definition of putrescible waste.

2 MR. BLOCK: That's correct. That's the crux of
3 why.

4 BOARD MEMBER ROBERTI: I agree with the prior
5 speaker, as putrescible waste is grass just based on the
6 smell test, cut grass. Why would there be any doubt as to
7 whether that's putrescible or not?

8 MR. HOLMES: I think it speaks to the types of
9 facilities that are handling grass clippings and whether or
10 not traditionally they have been regulated and do they think
11 that they should now be regulated? In other words,
12 landscape type of materials.

13 BOARD MEMBER ROBERTI: I tend to think if we are
14 trying to snare, entrap, get one facility for maybe very
15 good reasons, then we shouldn't be selective about it. And
16 under any number of theories, including fair treatment,
17 equal protection, whatever, we should include everybody with
18 putrescible waste. And why would we be exempting out real
19 question people who -- facilities who handle cut grass?
20 Because that's got -- that's the lynch opinion of
21 putrescibility.

22 MR. BLOCK: Just to provide a little bit more
23 context as well, though, again, this would be the trigger
24 for whether they are covered under the transferring
25 processing regulations under the composting regulations,

1 chippers and grinders, and typically that's green waste, on
2 the current version if they are keeping that material over
3 seven days and up to -- they have at least 1,000 cubic yards
4 on site, and the item before lunch this morning talked about
5 lowering that threshold to 48 hours. So that would be
6 regulated. That's the crux of the issue.

7 We talk about how those two packages put together,
8 that's why you have speakers saying we don't really need to
9 deal with green waste in the transferring processing
10 regulations because we can take care of the green waste
11 under the composting regulations.

12 BOARD MEMBER ROBERTI: But this specifically
13 doesn't -- whether something is a recycling center or not,
14 we are dealing with the issue of something that is unique to
15 this definition and probably is nowhere else, and that's
16 residual waste. Therefore, we have to come up with a
17 definition of putrescible if we adopt the emergency
18 regulations to help us define residual. Whether this is
19 consistent or not with other definitions of putrescibles we
20 have for other purposes, I don't know.

21 But it strikes me as illogical to get one
22 facility, for whatever good reasons there are, there seems
23 to be escaping regulation and not include those facilities
24 that deal -- that take in grass clippings. Because that's
25 just -- I mean, my layman nose tells me that's putrescible

1 items and so on.

2 I don't -- it appears we seem to be working a
3 little bit to exclude this for purposes of symmetry. I sort
4 of agree with the prior speaker, whatever. And right now I
5 take it if we pass the emergency regulations as they are, we
6 will not be including within the definition of putrescible
7 those facilities that deal with grass clippings, for the
8 most part.

9 MR. HOLMES: Actually, you would be because that
10 is the way they are written before you. So if you adopt the
11 resolution as is, that would be included. Of course we have
12 been talking about modifications to that task.

13 BOARD MEMBER ROBERTI: So if we modify, then we
14 run the risk of not including grass clippings?

15 MR. HOLMES: Yes.

16 BOARD MEMBER ROBERTI: Because we would be
17 including a definition of the -- the definition of
18 putrescible that appears somewhere else in statute or in
19 regulations.

20 MR. HOLMES: Yes. It appears in compost, the
21 prelude to the -- it appears here -- this text that you have
22 here is excerpts from Article 6, which are the transfer
23 processing requirements that are in existing Title 14. So
24 all we are doing is revising that language to make it clear
25 that --

1 BOARD MEMBER ROBERTI: Now you have to help me one
2 more time. Why are those transfer processing requirements
3 germane to the regulation we are adopting now if we don't
4 have the emergency portion in, because at no point do the
5 current regs refer to putrescible. Why do we need that
6 definition of putrescible except for the fact that we are
7 now trying to add it to the emergency regs? You understand
8 the point I am trying to make?

9 Why were we working on -- I thought the definition
10 of putrescible, I was told, wasn't relevant. Because it was
11 never defined before. It never needed to have a definition
12 before. And now I am told it is sort of relevant.

13 MR. BLOCK: The transfer processing regs have been
14 on the books about 20, 25 years.

15 BOARD MEMBER ROBERTI: How are the transfer
16 processing regs relevant to the recycling?

17 MR. BLOCK: The location where we put the two-part
18 test, where it ended up going into was the Article 6.0
19 through 6 point something that govern transfer processing
20 regulations. Because the exception in statute for
21 facilities that deal with primarily source separated for use
22 materials is an exception to the definition of the transfer
23 processing station. So that regulation that it provides
24 that the two-part test, which is an exception to that, fits
25 in the same regulation.

1 Now the transfer processing regulations there have
2 been regulations on the book for 20, 25 years that had
3 existing definition of putrescible waste. I can't tell you
4 now off the top of my head why they were added 20, 25 years
5 ago, but they weren't for purposes that we are talking about
6 today. So they carried over the last time we revised them.
7 We just didn't change that definition.

8 BOARD MEMBER ROBERTI: So essentially our generic
9 definition we are dealing with which puts us in the whole
10 regulatory structure is a transfer processing definition and
11 the recycling is an exception, and then the residual's an
12 exception to the exception?

13 MR. BLOCK: The residual is just part of the
14 definition that's used to determine the exception.

15 BOARD MEMBER ROBERTI: It is an exception.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

17 BOARD MEMBER JONES: I want to make the motion.
18 Because the transfer station -- just real quick to answer
19 your question, transfer station regs, the recycling
20 community did not want to get their facilities permitted.
21 They wanted to stay outside of the permit hierarchy, so they
22 said they were recycling facilities. That's why the 10
23 percent residual and so forth. We didn't think it would
24 include food waste. It does. That's why.

25 The putrescible issue was why transfer station

1 regs were done originally because of the health and safety
2 issues because of unregulated transfer facilities.

3 I am going to move, Madam Chair, adoption of
4 resolution 2001-51 for consideration of adoption of
5 emergency regs for the transfer processing putrescible waste
6 as revised to include putrescible waste cannot exceed 1
7 percent of the total and that we eliminate the underlying
8 line 30 to 32, and then on page 4, and that we put a time
9 line to let facilities comply.

10 BOARD MEMBER EATON: Second.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. I have a
12 question. Does that include grass clippings?

13 BOARD MEMBER JONES: I think grass clippings are
14 included in the definition that exists, in my own view,
15 because it is subjective, and these are transfer station
16 regs.

17 BOARD MEMBER ROBERTI: That's not an answer. I
18 appreciate your view, Mr. Jones. I hope it prevails, but
19 that doesn't appear to be what staff was telling us, or the
20 legal office.

21 MR. BLOCK: You can make this say whatever you
22 want. So if you want them to include grass clippings, we
23 can just write it that way.

24 The question, I think, that's been raised by some
25 of the speakers -- at least I heard some discussion about

1 moisture content in the grass clippings. So if the Board
2 wants grass clippings in regardless of moisture content, we
3 can write it that way.

4 If you want it to be a determination made by the
5 LEA, we can write it that way. I don't think that we have a
6 particular position that we care to -- we can write it any
7 which way you want.

8 BOARD MEMBER EATON: I'll try and help. If you
9 have grass clippings, are those grass clippings capable of
10 being decomposed by microorganisms, yes or no?

11 MR. HOLMES: Yes.

12 BOARD MEMBER EATON: So we met the first part of
13 the definitions. And can they decompose with enough -- with
14 sufficient rapidity as to cause a nuisance?

15 MR. HOLMES: Yes.

16 BOARD MEMBER EATON: So I think the standard we
17 are missing here is the standard of nuisance. Any item or
18 any material that meets that definition without it being
19 explicit, whether it be yard trimmings or lawn, I think the
20 standard is the nuisance standard.

21 In that case, I can't remember the facts of
22 California Biomass, but the whole idea here is that whatever
23 materials there are, they need that doesn't matter whether
24 we explicitly set those forth or implicitly, the standard is
25 that which you have set here.

1 Just like a bug. Is a bug food? Well, no. But
2 if I'm on the show Survivor and I eat it, it is, because I
3 met the standard. I am not making light of it, but I think
4 we are missing a little bit here, nuisance.

5 BOARD MEMBER ROBERTI: I appreciate your
6 clarifying with the two points you raise, but why can't we
7 just put grass clippings in? Because it appears that some
8 LEAs are not so interpreting it as a nuisance. Because they
9 are saying it has low moisture content.

10 Obviously nobody is going to want to come up with
11 a device that has people checking out moisture contents in
12 grass clippings. Why can't we just use the word grass
13 clippings? It appears it does meet the two-part test that
14 Mr. Eaton spelled out.

15 BOARD MEMBER EATON: You'd want to move that up,
16 if I may ask, to that section on line 29. See, that's where
17 you put that in to be specific, correct? Because they have
18 some set forth here with "some."

19 BOARD MEMBER ROBERTI: Awful, dead animals and
20 grass clippings.

21 BOARD MEMBER EATON: Can we hear from the staff
22 there. Because that would solve your problem.

23 BOARD MEMBER ROBERTI: Absolutely. It smells as
24 bad as dead animals.

25 MR. WHITE: Chuck White with the SWIG group. We

1 all had lunch together, and it was very eventful because we
2 were talking about this. But we decided that's why our
3 recommendation begins with the industry recommends that you
4 just strike the proposed language on putrescible waste
5 because we believe that, as Mr. Eaton pointed out, it is the
6 nuisance issue.

7 Our attempt in moving forward -- as we mentioned
8 from the get-go, we did not want to unfairly single out
9 green material programs unless it became a nuisance issue.

10 So I think I can speak on behalf of SWIG that it
11 wasn't our intention to include the grass clippings only in
12 such it becomes a nuisance issue. So we wanted to be able
13 to contribute that.

14 One other quick item just to clarify with regard
15 to the residual issue, we wanted to add to the two-part or
16 add to the recycling center definition just for clarity
17 purposes on page 7 at line 48 to be able to specify that the
18 recycling center does not handle putrescible waste greater
19 than 1 percent of the total amount other than in incidental
20 -- that recycling centers only handling incidental
21 putrescible waste and a number not to exceed 1 percent of
22 the total amount of tonnage. That was another thing I just
23 wanted to clarify for the record.

24 CHAIRPERSON MOULTON-PATTERSON: We are really
25 going to have to move on. Just very quickly, we had posted

1 this meeting for three days, and we'll go three days.

2 Because a lot of our staff are having child care problems,
3 so we are not going to go until 8:00 tonight.

4 MR. CUMMING: What Senator Roberti is proposing,
5 putting the word grass clippings there, is very
6 appropriate. I have been dealing with this issue for a lot
7 longer than a citizen group should have to deal with this
8 issue, and it is simply because you do have LEAs out there
9 looking at the definition that Mr. Eaton read and side on
10 the fact that, well, grass clippings aren't mentioned. And
11 yeah, okay, we have a halfway decent argument with moisture
12 issues here, and no, we are not going to go out and measure
13 it. We are going to take your word for it that it does not
14 have that moisture content, so we are not going to cover
15 grass clippings.

16 I agree with Senator Roberti. Grass clippings are
17 putrescible waste, sideways, upside down regardless of
18 moisture content. Because when they are mixed with other
19 putrescibles, moisture is added. Bottom line, throw it in
20 there, if it brings other people under the regulatory than
21 they weren't before, so be it. Rather have them regulated
22 than unregulated.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you,
24 Mr. Cumming. Do we have a motion? We have a motion and a
25 second.

1 BOARD MEMBER MEDINA: Grass clippings in or not at
2 this point?

3 BOARD MEMBER JONES: No. Make another motion.
4 Make a subsequent motion. I think it is redundant. We
5 heard from the City of LA. We heard from the County of LA.
6 We heard from cities that this may create a problem. We
7 don't know if it is or not. I would just assume do it with
8 the existing definition of putrescible.

9 Do an LEA advisory and find out what the impacts
10 are going to have to city collection programs, which you may
11 be making those all transfer stations.

12 BOARD MEMBER MEDINA: If an -- I assume you would
13 do an LEA advisory based on the fact that this was passed
14 today?

15 MS. NAUMAN: We would begin that process.

16 BOARD MEMBER MEDINA: Would the LEA advisory
17 mention grass clippings?

18 MS. NAUMAN: Yes, it would.

19 BOARD MEMBER MEDINA: It would bring them in?

20 MS. NAUMAN: It would try to provide some guidance
21 as to LEAs as to what you are looking at when you look at
22 grass clippings.

23 BOARD MEMBER ROBERTI: That's not the same. What
24 about grass clippings with low moisture, you are going to
25 leave that up to the LEA?

1 MS. NAUMAN: That would be up to the advisor of
2 what this Board adopts. So it would say while not
3 explicitly included in the definition, LEA should look at
4 the definition and the emphasis on performance, and the
5 emphasis here is the causing a nuisance.

6 We are looking at all of these facilities. We are
7 looking at all of the putrescible waste involved. They
8 should be looking at whether or not it has the potential to
9 cause nuisance conditions, and the public has the same right
10 to file complaints based on nuisance or any situation that
11 arises where they believe there is a nuisance.

12 BOARD MEMBER ROBERTI: I think this highlights one
13 of the problems we had in the audit. I hate to raise the
14 word audit, but that is what is the loyalty of the LEA, and
15 in this case the LEA is going to be under pressure to allow
16 permitting what his senior authority allowed to be
17 permitted, and that was the establishment or the zoning of a
18 recycling center.

19 So we are running the risk that grass clippings
20 are not going to be included simply because the LEA knows
21 who their appointment authority is. That's the whole point
22 that was raised during the audit.

23 They are going to be part of the advisory. The
24 advisory will confirm what the problem is, and that is that
25 grass clippings are in the eye of the beholder, and the

1 beholder is going to be the same person that permitted or
2 allowed the zoning of the place.

3 Frankly, I am not going to vote for a resolution
4 that doesn't include grass clippings because that's the most
5 putrescible of products. I'd rather see a fair resolution,
6 one that treats all recycling centers the same rather than
7 one that picks and chooses based on the LEA. I would be
8 glad to offer a substitute motion that includes grass
9 clippings and spell it out.

10 CHAIRPERSON MOULTON-PATTERSON: Did you wish to?

11 BOARD MEMBER ROBERTI: I guess that's a substitute
12 motion. I guess that's a substitute motion.

13 BOARD MEMBER PAPARIAN: Second.

14 CHAIRPERSON MOULTON-PATTERSON: We have a
15 substitute motion that includes grass clippings.

16 BOARD MEMBER MEDINA: Presumably it was identical
17 to Mr. Jones' motion?

18 BOARD MEMBER ROBERTI: Absolutely.

19 BOARD MEMBER PAPARIAN: With the exception that
20 you are adding grass clippings to that list. So you have
21 food waste, awful, dead animals and grass clippings.

22 CHAIRPERSON MOULTON-PATTERSON: We have a
23 substitute motion by Senator Roberti, second by
24 Mr. Paparian. It is identical to Mr. Jones' motion with the
25 addition of grass clippings; is that correct? Call the

1 roll, please.

2 SECRETARY FARRELL: Eaton?

3 BOARD MEMBER EATON: Pass temporarily.

4 SECRETARY FARRELL: Jones?

5 BOARD MEMBER JONES: Pass temporarily.

6 SECRETARY FARRELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY FARRELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 SECRETARY FARRELL: Roberti?

11 BOARD MEMBER ROBERTI: Aye.

12 SECRETARY FARRELL: Moulton-Patterson?

13 CHAIRPERSON MOULTON-PATTERSON: Aye.

14 You want to go back to the passes?

15 SECRETARY FARRELL: Eaton?

16 BOARD MEMBER EATON: Sure.

17 SECRETARY FARRELL: Jones?

18 BOARD MEMBER JONES: Sure.

19 CHAIRPERSON MOULTON-PATTERSON: We'll now have a

20 ten-minute break. I apologize, Balinda.

21 (Recess wastaken.)

22 CHAIRPERSON MOULTON-PATTERSON: I would like to

23 call the meeting back to order, please. We will be going

24 back to item 5.

25 MS. NAUMAN: Thank you. Madam Chair, item No. 5

1 is consideration of a new solid waste facility permit for
2 the Grand Central Recycling and Transfer Station permit.
3 This is our only permitted item this month, and there was
4 some staff here, bill Marciniak from our Fullerton office.

5 CHAIRPERSON MOULTON-PATTERSON: We should do ex
6 partes before we begin. We have a quorum. Mr. Eaton?

7 BOARD MEMBER EATON: Nothing.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

9 BOARD MEMBER JONES: Nothing.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

11 BOARD MEMBER MEDINA: Nothing to report.

12 CHAIRPERSON MOULTON-PATTERSON: And I have nothing
13 to report. Okay. We are ready.

14 MR. MARCINIAK: Good afternoon, madam Chair and
15 Board members. I am Bill Marciniak of the Board's
16 Permitting and Enforcement Division, and we will be
17 presenting agenda item No. 5, which is consideration of a
18 new solid waste facility permit for the Grand Central
19 Recycling and Transfer Station in Los Angeles County.

20 The facility will be operated by Grand Central
21 Recycling and Transfer Station, Incorporated. The proposed
22 permit will allow the construction of 120,000 square foot
23 material recovery facility on a 10-acre parcel of land.
24 Maximum permit capacity will be 1500 of waste per day.
25 Permit hours of operation will be 24 hours a day, seven days

1 a week.

2 The LEA has certified that the application package
3 is complete and correct, and I have also reviewed the
4 supporting documentation and permitting and found them to be
5 acceptable. Local enforcement agency and court staff have
6 made the following findings: That the proposed permit is
7 identified as a non-disposable facility element of the City
8 of Industry. That based upon a review, the reported
9 facility information, the design of the facility will allow
10 facility operation to be conducted in compliance with State
11 minimum standards, and that the proposed permit is
12 consistent with and supported by the California
13 Environmental Quality Act analysis.

14 We did have -- in the draft EIR there were
15 comments received from nine adjacent companies which stated
16 that they had opposition to the project. And the lead
17 agency noted in the response to comments that the comments
18 were noted, but they concluded that no response was
19 necessary in the final EIR.

20 Board staff are unaware of any unresolved disputes
21 regarding the opposition. The Board also received one
22 comment on the agenda items, CEQA determination from the
23 Riverside County Waste Management Division regarding the
24 statement in the agenda item. Our statement was that we
25 note that one of the conclusions on -- let me start over

1 again now.

2 A comment that we had in our agenda item is that
3 it is our opinion that the June 8, 2000, final EIR does not
4 address impacts for future rail haul activities. And if
5 they are proposed, the agency or responsible agency may
6 require additional -- I should emphasize may require
7 additional environmental review in accordance with CEQA to
8 assess the potential significant environmental impacts of a
9 rail haul project. And their comment that they wanted for
10 the record was that we would like to remind the State that
11 in a project you have approved in Riverside County for the
12 Eagle Mountain Landfill the rail haul issue has been
13 addressed in our CEQA document.

14 The implication from this is that, from our staff,
15 is that the rail haul projects did address certain
16 environmental issues, but at the transfer stations
17 themselves there may be additional CEQA items that weren't
18 addressed in these other documents.

19 So even though we note their comment, there still
20 may be, according to -- dependent upon Board CEQA staff,
21 additional environmental analysis that they'll be looking
22 for from that.

23 And in conclusion, the staff recommend they adopt
24 facility No. 2001-53 in concurring with the issuance of
25 solid waste permitting facility in 1998. Mr. Manual Perez,

1 president of the company, Mr. Chip Clements or Mr. Jeff
2 Dukanow, project manager are available for any questions you
3 may have.

4 CHAIRPERSON MOULTON-PATTERSON: First of all,
5 Mr. Paparian, do you have new ex partes?

6 BOARD MEMBER MEDINA: Yeah, I spoke briefly with
7 Justin Malan and Gordon Larson.

8 BOARD MEMBER ROBERTI: Just briefly, I spoke with
9 Mr. Marcinian last Friday, and, frankly, on perfect location
10 for this kind of activity. It does not appear to be much
11 housing nearby and the owners appear to be doing everything
12 they can to make it a functional, environmentally sound
13 facility.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

15 BOARD MEMBER JONES: If there aren't any other
16 questions, I would like to move adoption of resolution
17 2001-53 and acknowledge that I agree with the Senator. The
18 Perezes are one of the better actors in solid waste
19 management and need to be acknowledged for that.

20 So I'll move adoption of 2001-53, consideration of
21 a new solid waste facility permit for the Grand Central
22 Recycling and Transfer Station in Los Angeles County.

23 BOARD MEMBER EATON: Second that.

24 CHAIRPERSON MOULTON-PATTERSON: We have a motion
25 by Mr. Jones, second by Mr. Eaton to approve resolution

1 2001-53. Please call the roll.

2 SECRETARY FARRELL: Eaton?

3 BOARD MEMBER EATON: Aye.

4 SECRETARY FARRELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 SECRETARY FARRELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY FARRELL: Papararian?

9 BOARD MEMBER PAPARIAN: Aye.

10 SECRETARY FARRELL: Roberti?

11 BOARD MEMBER ROBERTI: Aye.

12 SECRETARY FARRELL: Moulton-Patterson.

13 CHAIRPERSON MOULTON-PATTERSON: Aye.

14 Thank you very much.

15 I might mention we will not be going past 6:00

16 o'clock tonight. The lights will be going off. So we will

17 be adjourning right before 6:00 o'clock.

18 Item No. 7.

19 MS. NAUMAN: Item No. 7 is a discussion item. It

20 is a discussion of the local enforcement agency evaluation

21 process. Over the course of the last several months, and

22 particularly in the context of discussions about the audit,

23 it was released in December. Several questions have been

24 raised and the Board has engaged in some dialogue about

25 local enforcement agencies, the certification process, the

1 evaluation process.

2 So our intent here this afternoon is to bring a
3 discussion item to you to provide an overview of how that
4 process has worked from its inception and through our second
5 cycle of evaluations.

6 Staff presenting today are Dmitri Smith and Gabe
7 Aboushanab.

8 MR. ABOUSHANAB: Gabe Aboushanab of the LEA
9 Program Assistance and Evaluation Section. We will quickly
10 present back information on the LEA evaluation process, and
11 we'll update the Board on the current status of LEA
12 evaluation completed during the second cycle, which is still
13 ongoing and ends -- which ended December 31, 2000.

14 On June 1996 staff presented an item to the Board
15 which summarized the results of the first cycle. Staff will
16 later present a brief comparison of both the first and
17 second cycle.

18 Also as a background staff did include tales of
19 the Board's LEA program which encompasses for the LEA their
20 support and evaluation.

21 LEAs are agencies designated by local governing
22 bodies, and they must comply with the PRC Section 4320,
23 which in essence states that no local governmental
24 department or agency or any employee thereof, which is the
25 operating unit for a solid waste handling and disposal

1 operation, shall be the enforcement agency and the operating
2 unit is further defined in certification regulations.

3 And it says that it is any local agency that
4 operates, causes to operate or administers contracts or
5 agreements for any portion of the facility or solid waste
6 handling and disposal system. This is the extent to which
7 the current statute and regulations address any perceived
8 conflict of interest with respect to LEAs.

9 LEA certification staff verifies that the agency
10 precludes conflict in the manner I just described. And
11 prior to recommending the Board certify an agency, staff
12 assess the agencies that are designated to assure that
13 there's adequate staff and technical expertise and budget
14 resources, training, and we also review and approve their
15 enforcement program plan called EPP.

16 Currently 56 certified LEAs perform permitting
17 inspection enforcement duties statewide. Does the Board
18 have any questions so far at this time?

19 CHAIRPERSON MOULTON-PATTERSON: I have a
20 question. If an LEA submits an incomplete permit, does the
21 permitting staff talk to that LEA and does that trigger an
22 evaluation?

23 MR. ABOUSHANAB: I think we will be getting more
24 into that when I mention to you we have the outside
25 evaluation cycle triggers that as an attachment four or

1 five, Madam Chair, and there is a way, if you wanted me to
2 turn ahead to that point, where we would go into.

3 If you look at attachment four, if staff
4 identifies the problem which is a potential issue in LEA
5 performance, and they set up a meeting basically between our
6 branch -- our division -- I mean, our branch and their
7 branch, and we discuss what exact facts are related to this
8 particular instance, and usually the first step is training,
9 finding out what's going on and trying to work one on one.

10 This will become clear as Dmitri gets in and
11 describes the process itself and outside the cycle, too.

12 CHAIRPERSON MOULTON-PATTERSON: Okay.

13 MS. ANDERSON: Madam Chair, there is not a quick
14 answer for this because there are a series of steps that
15 involve due process. I think that's what Gabe was referring
16 to, that that might just be one of the pieces of the
17 building block that we would be looking at.

18 MR. ABOUSHANAB: Real quick on LEA evaluation,
19 statute requires that the Board develop the form for the LEA
20 evaluations. And essentially these were developed quite a
21 few years ago, Title 14, Division 7, Chapter 5, Article
22 2.2. They do exist. And when we evaluate LEAs, we use
23 these standards to assess LEA performance to make sure the
24 LEA provides consistent enforcement of statute and regs and
25 also make sure the LEA implements its EPP, which means they

1 remain in compliance with certification requirements with
2 respect to staff adequacy and technical expertise and
3 resources and training and carrying out any specific
4 processes of new enforcement plans.

5 The LEAs are also required to update their
6 enforcement plans, and we review each jurisdiction's
7 workload to make sure that the staff facilities and
8 jurisdictions as outlined in their time test analysis meets
9 their jurisdictional needs, and then, of course, if we find
10 any components that need to be revised we do notify the LEA.

11 Briefly I would like to mention that an LEA
12 evaluation is a snapshot in time. It is a diagnosis that
13 gives us an ideas of what's going on specifically in a
14 jurisdiction during a defined period. Once program
15 implementation issues are identified, the LEA is first given
16 an opportunity to come up with its own solution, and the LEA
17 evaluation is almost like an LEA checkup.

18 Most of the time the checkup is okay, and there's
19 no severe surgery needed, per se. This is precisely how the
20 LEA evaluation that's approved by the Board, the process
21 itself works for the most part. When we find a problem, we
22 try to work it out between P and I and closure and the LEA
23 and try to take care of it. If we succeed, it is case
24 closed.

25 And if it is not, it is kicked up a notch or more

1 until it becomes a matter that we bring before the Board.
2 Without getting myself deeper into the matter, I would like
3 to introduce Dmitri and he'll go on. I will go back and
4 answer for you that question how we deal with any issues
5 that fall outside the cycle itself when we get into those
6 attachments. I haven't forgot.

7 MR. SMITH: My name is Dmitri Smith of the LEA
8 Program Assistance and Evaluation Section. I am here today
9 to present the evaluation process which we have broken into
10 several steps. Please refer to attachment one, LEA
11 evaluation procedures, or attachment two, which is the
12 summarized version of the procedures in a flowchart format.

13 The Board's LEA program staff conducts LEA views
14 and evaluations every three years based on Board-approved
15 and internal procedure. The evaluation staff utilizes the
16 solid waste information system referred to as SWIS
17 database.

18 The enforcement division staff work with the LEA
19 to determine the LEA is fulfilling his duties and
20 responsibilities. Evaluation finds that an LEA is
21 fulfilling his duties-- is not fulfilling his duties if one
22 of the six applies. No. 1, the local enforcement agency has
23 failed to exercise due diligence in the inspection of solid
24 waste facilities and disposal sites.

25 No. 2, the local enforcement agency has

1 intentionally misrepresented the results of inspection.

2 No. 3, the whole enforcement agency has failed to
3 prepare or cause to be prepared permits from divisions or
4 closure and post closure maintenance plans.

5 No. 5, the local enforcement agency has failed to
6 take appropriate enforcement actions. I skipped No. 4,
7 which is the local enforcement agency has failed to prepare
8 provisions, closure and post closure plans which are not
9 consistent with part four or part five of Public Resources
10 Code.

11 Finally the local enforcement agency has failed to
12 comply with or take any actions, emphasis with, or
13 authorized by statute and regulations. The findings are
14 documented in the LEA evaluation results report which can
15 result in no issue, minor issues or a finding as earlier
16 described.

17 Minor or no LEA program implementation issues the
18 results -- the report can result in the following: LEA
19 accommodation for a job well done. Specific recommendations
20 for improvement in one or more of the LEA program
21 responsibilities. If the evaluation staff find that the LEA
22 is not fulfilling his duties and responsibilities and there
23 is no immediate threat to public health and safety and the
24 environment, the first step is to correct the LEA
25 performance issues by requiring the agency to develop an

1 evaluation work plan for submittal to the Board for approval
2 within 30 days. Failure to do so will result in a Board
3 considering withdrawal of the LEA's designation approval.

4 The primary evaluation follow-up activity consists
5 of monitoring the LEA's work program process at regular
6 intervals. When a work plan is not met, staff can be in an
7 administrative conference. At this conference attendees
8 attempt to reach a consensus that resolves the issues.

9 An administrative conference did result in
10 preparation or revision of a work plan or in staff bringing
11 the matter before the Board. If administrative remedies
12 fail, the Board may exercise one or more of the following
13 statutory actions where staff prepares an agenda item for
14 the following Board options, and I'll review the options
15 right now.

16 The Board may establish a schedule and
17 probationary period for improved LEA performance. This
18 period allows due process for the LEA to accomplish
19 objectives without direct Board intervention at a local
20 level.

21 The Board may assume partial responsibility for
22 specified LEA duties. Under this option the Board considers
23 partial decertification, full decertification, the
24 withdrawal of designation approval. This action will result
25 in direct Board involvement on the local level. The Board

1 may assume local enforcement agency responsibilities on a
2 site-by-site basis, or one or more certified LEA duties, or
3 in all LEA certification duties. Full decertification and
4 withdrawal of designation approval results in the Board
5 becoming the enforcement agency for the jurisdiction.

6 Statute allows the Board to recover expenses when
7 acting in any of these capacities. The Board may conduct
8 more frequent inspections and evaluations. The Board may
9 implement any other measures or take any other actions which
10 it determines are necessary to improve LEA compliance.

11 If the lack of LEA performance has contributed to
12 significant noncompliance with State minimum standards at
13 solid waste facilities, the Board shall withdraw its
14 approval of this designation. It is very important to know
15 that the Board can utilize an urgency status which can be
16 applied at any time. The Board finds the condition at a
17 solid waste facility threatened public health or safety or
18 the environment the Board shall, within ten days of
19 notifying the LEA, become the enforcement agency until
20 another local agency is designated and certified. At this
21 time does anyone have a question?

22 BOARD MEMBER MEDINA: I have a question. Are
23 there any LEAs currently that require the urgency step, and,
24 also, when was the last time that staff prepared an agenda
25 item recommending this option?

1 MR. ABOUSHANAB: There has not been an urgency
2 step where an immediate threat to public health and safety
3 and the environment. However, we have not had to go before
4 you beyond -- to get more severe action other than the work
5 plans that we had to generate during an evaluation site.
6 And basically one of the three work plans has been met, and
7 the other two are currently being reviewed.

8 So essentially when Dmitri gets into the
9 comparison of the last cycle and this cycle, you are going
10 to see that we had six administrative conferences in the
11 first cycle and we had four or five Board actions that came
12 before the Board and 28 or so jurisdictions needed work
13 plans and for trying not to fulfill responsibilities.

14 Again, we are getting a little bit ahead of the
15 presentation here. We have found in this cycle -- and I am
16 going by memory here. Out of 30 completed, we found eight
17 -- 22 were fulfilling most of their responsibilities.
18 Eight were not, and five of the eight had issues that were
19 resolved immediately, which they weren't inspecting closed
20 sites or one active site out of the ten.

21 So there was no work plan per se involved. What
22 they had to do was an immediate fix. The other three had to
23 develop and submit work plans for us to approve, and they
24 included following up on permits and doing permit revisions
25 and issue enforcement actions in one case. And if you look

1 at the spreadsheet, the three I am referring to on work
2 plans, I believe that's attachment three.

3 MR. SMITH: I am about to do that now. At this
4 time I would like the Board to refer to attachment three --

5 CHAIRPERSON MOULTON-PATTERSON: Excuse me.
6 Mr. Jones?

7 BOARD MEMBER JONES: I think what Mr. Medina was
8 saying on the urgency, a question about the urgency, you
9 haven't had any for health and safety, but did you bring an
10 item before us where we partially decertified an LEA and
11 that was about three years ago, two years ago?

12 MS. ANDERSON: Probation. They were given
13 probation.

14 BOARD MEMBER JONES: But we took over some of the
15 responsibilities, correct?

16 MS. ANDERSON: We threatened to.

17 BOARD MEMBER JONES: They got them worked out?

18 MS. ANDERSON: Yeah, that was with Inyo County.

19 MR. ABOUSHANAB: It was my understanding -- it was
20 a question regarding -- in the second cycle we had not -- we
21 didn't have to, but in the second cycle we had four or five
22 instances.

23 MS. ANDERSON: We have never been faced with an
24 urgency situation where we were to snatch it away. We have
25 gotten close at the time, and the LEAs have realized that

1 they need to step up their activities. Inyo is the closest
2 we have ever gotten to something, but it was more of a
3 political bureaucratic process that we were trying to get
4 them to shake loose within their facilities.

5 The facilities weren't complying. The LEA was
6 doing their job to a point, but the facilities were not in
7 compliance. So what happened with a lot of the effort from
8 our Board members, they smuggled some funds in the County to
9 pay for facility compliance.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you,
11 Ms. Anderson.

12 MR. SMITH: At this time I would like the Board to
13 refer to attachment three, the summary for the second
14 cycle. Please note -- if you are also referring to the
15 comment section at the end, please note that the comment
16 fulfilling duties refers to an LEA who fulfills all duties.

17 I am going over the terms used in the comment
18 section, and please note that the comment fulfilling duties
19 refers to an LEA that refers all duties and the term for
20 fulfilling most duties refers to an LEA with minor
21 implementation issues for a finding.

22 Please keep in mind that not all findings require
23 a work plan. The common evaluation work plan refers to the
24 finding which requires the work plan. And this is -- I will
25 review the summary right now which Gabe alluded to earlier,

1 and that's a comparison of the first cycle to the second
2 cycle.

3 During the second cycle and evaluations, staff
4 made four findings in which the local enforcement agency has
5 failed to exercise due diligence in the inspection of solid
6 waste facilities and disposal sites. This is compared to 16
7 for the first cycle.

8 Again, in the second cycle the evaluation staff
9 made seven findings in which the enforcement agencies failed
10 to prepare or caused to be prepared permits, provisions or
11 closure or post closure maintenance plans. This is compared
12 to 25 with the first cycle.

13 Again, in the second cycle evaluation staff made
14 one finding in which the enforcement agency failed to take
15 appropriate enforcement action. This is compared to 21 in
16 the first cycle.

17 And finally, again, in the second cycle evaluation
18 staff made one finding in which the enforcement agency
19 failed to maintain certification requirements. This is
20 compared to eight in the first cycle.

21 In addition, please note that in the second cycle
22 three work plans were required. This is compared to 18 in
23 the first cycle. Zero administrative conferences were
24 required in the second cycle as compared to five from the
25 first.

1 And finally, zero Board action were required in
2 the second cycle as required by one in the first cycle. Of
3 the three work plans required in the second cycle, one was
4 completed ahead of schedule and two remain to be monitored
5 by the staff. So basically we are monitoring the two
6 remaining work plans.

7 This concludes my portion of the presentation. I
8 would like to thank the Board members for giving me the
9 opportunity for presenting this part of the item. If you
10 have any questions, please feel free to ask right now, and I
11 will answer them to my best abilities.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.

13 Mr. Medina?

14 BOARD MEMBER MEDINA: Yes, I wonder if you can
15 tell me what the LEA advisory committee, have they had any
16 input in regard to this process or what has been their
17 involvement?

18 MS. ANDERSON: We had a group of stakeholders
19 involved between the first and second evaluation cycle where
20 we solicited a ton of feedback to find out how we did the
21 first time, and we actually -- there was a lot of
22 stakeholders from the EEC, CCEH, all the branch managers,
23 the deputy director, and a couple advisors were involved in
24 generating the new process.

25 Now with this new process, the input that we got

1 from everybody is they like it and it cuts right to the core
2 and uses hard data. It is not a subjective situation. We
3 are actually using what's in SWIS to find out what the gaps
4 are. And if there are any gaps, we try to work with the LEA
5 to try to fix those situations.

6 We have gotten good feedback. We give them
7 periodic updates at meetings and at roundtable meetings.
8 They say they like the process this way better than it was
9 in the first go-around. I think there was also a question
10 we needed to follow up on with respect to public and
11 private.

12 MR. ABOUSHANAB: I believe we were in the briefing
13 last week or so the question asked was how many of the
14 facilities and sites that we found as having an issue of
15 finding during evaluations were public versus private, if
16 I'm correct, and I did a little bit of legwork and went
17 through the evaluations and it comes out to be 55 public
18 facilities, 28 of which were closed or closing. That's over
19 half. And 11 were transfer stations. 11 were private
20 facilities. One was Native American, and eight are
21 unknown. These are closed sites that have no owner of
22 record and so forth. So they are old dump sites. Those are
23 unknown, to be determined sites.

24 BOARD MEMBER PAPARIAN: Perhaps Mr. Jones could
25 help me with this. The general proportion of public to

1 private facilities in California, or maybe somebody on the
2 staff. And we need a SWIS-mizer at this point.

3 BOARD MEMBER JONES: I would only be guessing, and
4 that wouldn't be fair.

5 BOARD MEMBER PAPARIAN: Just off the top of your
6 head, does it seem like there's five times as many public
7 facilities as there are private facilities?

8 BOARD MEMBER JONES: Yeah.

9 MR. DeBIE: Mark DeBie with Permitting and
10 Inspection Branch. If you look at the landfills, the split
11 is -- I am not going to say 50/50, but it is not as spread
12 out as what you're indicating. But if you include compost
13 facilities and transfer stations, then I think the majority
14 are privately owned and operated facilities. The public
15 sector does not get involved as much with the transfer
16 station composting operations as the private sector.

17 CHAIRPERSON MOULTON-PATTERSON: Any other
18 questions?

19 BOARD MEMBER JONES: I have one question. The
20 City of Berkeley or Stanislaus County or Santa Cruz, where
21 we are the EA, who evaluates us?

22 MS. ANDERSON: We do. It is a separate branch.
23 There's a separation there, and we do evaluation.

24 BOARD MEMBER JONES: Comfortable with it?

25 MS. ANDERSON: Very.

1 BOARD MEMBER JONES: I don't have any problem with
2 that.

3 MS. ANDERSON: I tell you, during the first
4 go-around I was the section chief for the EA section, and I
5 was put through the evaluation and I had to make changes to
6 my program. So as a matter of fact, we weren't inspecting a
7 lot of our closed sites. Some we didn't know where they
8 were, so we made some changes. But our manual is top notch,
9 our enforcement program.

10 BOARD MEMBER JONES: Gabe, of your 11 sites, did
11 you say eight were undetermined. Was that eight of the 11
12 or eight --

13 MR. ABOUSHANAB: No, some of them were closed
14 sites. So basically there are several.

15 BOARD MEMBER JONES: You didn't identify this part
16 of the --

17 MR. ABOUSHANAB: They show up on the SWAT list,
18 air SWAT, water SWAT, somebody alleges that from their
19 experience or an interview, and they still show up as having
20 to be inspected. So that's a summary.

21 I want to get back to your question, Madam Chair.
22 It seems to me the issue here in day-to-day activity in
23 conducting their job whether it is skill and knowledge and
24 inspection of preparing a permit package, knowing how to
25 review a closure plan. Your question seems to fit in one of

1 those categories. It is basic knowledge. And am I
2 understanding it correctly when they do a task, it seems if
3 they are missing or do not hand something in or do not do
4 something is when you question how that fits?

5 CHAIRPERSON MOULTON-PATTERSON: Incomplete.

6 MR. ABOUSHANAB: Incomplete work.

7 CHAIRPERSON MOULTON-PATTERSON: Right.

8 MR. ABOUSHANAB: Essentially we have -- the
9 evaluation itself is tied into six actual findings.

10 CHAIRPERSON MOULTON-PATTERSON: Or an incomplete
11 permit is what I specifically asked.

12 MR. ABOUSHANAB: In other words, work that needs
13 more work to be complete and acceptable? When that happens,
14 the first line of defense is for the branch itself and the
15 section itself that is receiving that work to try and do the
16 right thing through training or phone contacts and so
17 forth.

18 Now, that may not work, and then you get
19 frustrated. There's no accomplishment. The way the trigger
20 system works is once we try to identify the reason, the
21 branch does, try to identify the reason why this problem
22 exists, and usually it is involved by whatever methods are
23 discovered to be necessary, whether it is training or
24 hands-on, you travel to the jurisdiction, in assistance mode
25 and do certain things with the LEA.

1 However, having gone through that part, and if you
2 don't get satisfaction, if it is something that's not quite
3 a training issue or staffing issue, then there is an ability
4 where the manager of the branch and the deputy director can
5 discuss the matter and kick it up to become an evaluation
6 outside the three-year cycle.

7 So basically once we focus that it is not a lack
8 of knowledge due to training or anything we can actually fix
9 in person, you folks have the ability through recommendation
10 to come down and let Julie know to pass along to start doing
11 an evaluation because of cause that you heard in your
12 travel. So in many ways could initiate an evaluation
13 itself. I hope that was close to an answer for you.

14 CHAIRPERSON MOULTON-PATTERSON: Yes. Thank you.
15 We do have two speakers that I would like to get to before
16 the lights go out. Had you finished your presentation?

17 MS. ANDERSON: I have one more little offering,
18 just to sort of sum up. The quicky thing on technical
19 assistance, what we did learn from the first cycle to the
20 second cycle were the LEAs didn't receive enough education
21 from us to know what it is we were looking for to hit the
22 mark. So we put on a full court press.

23 MR. ABOUSHANAB: The LEA program assistance.

24 MS. ANDERSON: There's 13 bullets that says what
25 we are doing different from the first to the second time.

1 We may be doing some of those, but we have presently
2 enhanced the personal assistance and the support items. We
3 need to show them where the mark was before we evaluated
4 them on that mark.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 BOARD MEMBER MEDINA: I want to follow up on this
7 issue of, say, an LEA submitting an incomplete permit
8 application. I noticed in the short time that I have been
9 on the Board that it appears this has happened on a number
10 of occasions.

11 Have we had a number of these triggers pulled in
12 the last six months based on incomplete applications?

13 MR. DeBIE: We haven't pulled the triggers, but
14 there have been a couple of occasions where we got very
15 close to pulling the triggers. What we did between the time
16 where we identified the problem and worked toward pulling
17 that trigger was to provide assistance and guidance to the
18 LEAs to work out the issues.

19 What we are also doing is documenting those
20 interactions. So when the evaluation cycle does come up,
21 there is a complete record that indicates that a year ago or
22 two years ago, three years ago there were issues relative to
23 permit process, whatever it might be.

24 So that during the normal course of the evaluation
25 cycle that information could be assessed and evaluated.

1 But, again, to answer your question, we haven't pulled the
2 triggers. We have been able to work out those issues,
3 explain to the LEAs where the flaws are, where the problems
4 are and have those things rectified.

5 There's a fine balance in that we are trying to
6 produce a product, bring it to the Board, make it as
7 complete as possible as well as assisting and showing the
8 LEAs where it is. Some of them need more hand holding than
9 others.

10 BOARD MEMBER MEDINA: When I look at the
11 information in attachment five about the triggers for LEA
12 assistance, in the very first paragraph it says triggers
13 will not be used to evaluate programs. Is that different
14 than triggers will not be used to evaluate LEAs?

15 MS. ANDERSON: This is strictly a process that is
16 identified that we can use outside of the evaluation. If we
17 continue to see a downturn performance in a certain area, we
18 then can go back to the flowchart just prior to that, the
19 issue on attachment four. And if that issue can't be
20 resolved, then you can bump it up to the next level. It is
21 kind of a due process.

22 In other words, these specifically are not the
23 evaluation protocol, the six findings. That's not this.
24 This is sort of outside the evaluation process. These are
25 the triggers that help.

1 BOARD MEMBER PAPARIAN: Generated assistance. I
2 understand that, but I will throw this out there. I am
3 wondering if you face a situation where a number of these
4 triggers listed here where the LEA comes close to those
5 triggers or whether the triggers actually happen, whether
6 that should be enough to then justify triggering an
7 evaluation outside of the normal cycle.

8 MS. ANDERSON: Most likely.

9 BOARD MEMBER PAPARIAN: Maybe we might need to be
10 more explicit about that back on attachment one where you
11 talk about the other trigger options.

12 MS. NAUMAN: It is clearly our intent from a
13 management perspective to watch the perform answer closely
14 to provide the technical assistance, but to be able to draw
15 the line when we saw chronic performance. That's not
16 acceptable. You're right. We have seen some incomplete
17 applications, but I don't think we have gotten to the point
18 where we have seen a particular LEA or two or three that are
19 consistently giving us inadequate permit applications.

20 But I am very sensitive to some of the comments
21 that the Board has made over the course of the last
22 supplements and have been working very closely with these
23 two branches to ensure that we are closely monitoring the
24 work that we are getting from the LEAs, given appropriate
25 technical assistance but being willing to honestly say

1 there's a problem here, and we need to do something more.

2 So I am not hesitant at all to move from looking
3 at these triggers to an evaluation outside of the normal
4 cycle.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you. For
6 our public comments now, Justin Malan. We are almost at the
7 6:00 o'clock hour.

8 MR. MALAN: Justin Malan with the Environmental
9 Health Directors Association on behalf of the LEAs. Madam
10 Chair, I was actually hoping that you would be able to
11 commend the LEA program and certainly commend your staff.

12 I think it is remarkable that we have made this
13 progress in the last three years to have one single incident
14 where we have a deficiency recognized in the program. To
15 only have three LEAs out of 56, and now before that time was
16 up, we only have two. This one has complied with the
17 requirements.

18 I think we need to step back and say we have all
19 done a damn good job here, and much of the credit must go to
20 your staff. One has complied with the -- a number of years
21 ago we had what we called a marriage counseling, just as a
22 matter of context.

23 The whole idea there was to redefine and to focus
24 the respective roles and responsibilities of the Board and
25 the LEAs. We are your agents in the field. That's how we

1 viewed this. I think this is illustrative of how well this
2 process is working, not withstanding the State auditor's
3 report.

4 I think your staff have done a thorough, a very
5 thorough evaluation. We take no umbrage at the fact that
6 the Waste Board evaluates the Waste Board because we believe
7 you got a good process. If ever there was a conflict of
8 interest, it is yourself evaluating yourself. We have no
9 problem with that.

10 We think you have a fair process, a good process.
11 You hold yourselves accountable to it. You hold us
12 accountable to it. And the fact that you have got two LEAs
13 with work plans in your county on probation means that the
14 system is working.

15 And I, again, must reiterate that the Board staff
16 has done an excellent job in evaluating us. It has been
17 tough at times, but that isn't the issue that we are
18 concerned about. It is not the toughness. It is the
19 fairness. And I think it is fair, and I think it has
20 worked.

21 The only other point that we want to make to recap
22 on the discussion about, first, the incomplete application
23 and the other issue is about the trainings and assistance, I
24 think that the Board has got a good mix here between
25 evaluation and training.

1 That is one of the core issues in defining the
2 roles of the Board. The Board is both an oversight agency
3 and a resource to the LEAs. I think they have done an
4 excellent job in dividing those roles. Because if an LEA
5 calls up and needs help, the Board should be giving that LEA
6 help and shouldn't be dinging that LEA.

7 If they are honest and admit their dependency or
8 inadequacy in a particular area and ask for help, the Board
9 gives them help. I think that has elevated our program to
10 new heights. I think it would be counterproductive to start
11 dinging an LEA because they are asking for help.

12 Then I think we go back to the old days where the
13 LEA wouldn't be up here today. Now the LEA sit side by side
14 with your staff and offers a permit to you. And there's
15 extensive time and effort that goes into that permit before
16 you see it. But that partnership I think has worked.

17 And secondly, on the incomplete application, in no
18 way do I want to even suggest that I am trying to defend an
19 incomplete application, but I do want to suggest that at
20 times we face a moving target. Even your own staff face a
21 moving target. I think just bear that in mind. Sometimes
22 it is impossible to give you all the information you may
23 need at the time you make your decision.

24 BOARD MEMBER MEDINA: The problem with that is the
25 60-day clock.

1 MR. MALAN: I understand.

2 BOARD MEMBER PAPARIAN: Better to take the time on
3 the LEA side and make it complete than start us on the
4 60-day clock when we are struggling with a 60-day clock.

5 MR. MALAN: I agree with you 100 percent. I am
6 not suggesting you shouldn't raise these issues. It is your
7 country and your duty to raise these issues and challenge
8 the staff and the LEA.

9 We are not suggesting you don't challenge us. All
10 I am suggesting is it is not a deficiency, the fact that we
11 haven't got all the information you need. That's the only
12 thing I am saying. Don't not challenge us. Don't not ask
13 for more information. But the fact that we can't provide
14 all the information or haven't provided an application may
15 not necessarily mean that we have been deficient. That's
16 the deficiency. I think the Board has done an excellent
17 job, and I look forward to making it even better. Maybe
18 next time around we will have a big zero.

19 Thank you, Mr. Malan.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. I think we
21 all agree the LEAs do a very good job and our staff has
22 certainly done a very good job.

23 Senator Roberti?

24 BOARD MEMBER ROBERTI: I would like to be informed
25 when a permit comes up whether the initial application, if

1 that's the word, was incomplete or not. There may be a
2 number of reasons as to why we only have a couple of weeks
3 sometimes to act on a permit.

4 But if the problem is incomplete information in
5 the initial application, I would like to be informed of
6 that. So when we have to vote so it registers in our minds
7 as to whether we are going to be making a policy decision at
8 some point in the future to change things or to seek
9 statutory change or whatever.

10 So as part of, I guess, the whole LEA evaluation
11 process, this would be extremely valuable to me because the
12 most frustrating thing on this Board is for us to have to
13 vote. And then if you don't vote today, it is over with and
14 the local enforcement authority's decision is going to hold
15 and here we have had three seconds and two minutes to be
16 able to digest it.

17 I am not saying it is conspiratorial, but human
18 beings being what they are, it is certainly something that
19 will enter into your mind. I definitely would like as part
20 of our agenda to be told when there's an incomplete
21 application because I want to know why we only have a short
22 period of time to give an evaluation.

23 MS. NAUMAN: We can do that. We are right now
24 providing information about when we got the application,
25 when we act on it. We talk about information outstanding at

1 the time you write the item, but we can take that next step
2 and inform you what's in the package that we receive.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

4 BOARD MEMBER JONES: Quick question on that. If a
5 package goes forward and staff says I want more information
6 on these issues, is that considered incomplete?

7 BOARD MEMBER ROBERTI: If we ask for more
8 information on what we heard?

9 BOARD MEMBER JONES: If staff -- if the package is
10 there and one of the 100 people that are in that department
11 may say "I would like more of a description on this aspect
12 of that operation," it doesn't mean that it wasn't submitted
13 without a description, it just means that the staff wants a
14 more definitive description, and that happens continually.

15 Part of the wordsmithing that goes on around here
16 is that they will say "We are still waiting for
17 information." Well, yeah, but they may be in response to a
18 question that was asked a day ago.

19 BOARD MEMBER ROBERTI: I think staff should inform
20 is of that, too. I wouldn't consider that the LEA's fault
21 or our own staff's fault.

22 BOARD MEMBER JONES: They were doing their job.

23 BOARD MEMBER ROBERTI: But I think we should be
24 informed of that, too, because we have to make an evaluation
25 as to why material comes in to us late, and then if it is

1 chronic, what we are going to do about it. We should be
2 informed of that, too.

3 BOARD MEMBER JONES: Just so long as it is level.
4 I agree with what you said because it is a problem. I hand
5 drew a facility layout and got a call the day before the
6 committee meeting. Is this -- I mean, "Is this an actual?"
7 I said, "No, that's why I did it by hand so you could tell
8 it was conceptual." But that question got asked the night
9 before the committee meeting.

10 CHAIRPERSON MOULTON-PATTERSON: So we are not all
11 in the dark, we are going to have to conclude now, and we
12 will reconvene at 9:30 on item No. 11.

13 (Whereupon the proceedings were concluded at 6:06
14 p.m.)

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1 REPORTER'S CERTIFICATE

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3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF SACRAMENTO)

6 I, BALINDA DUNLAP, certify that I was the official
7 court reporter and that I reported in shorthand writing the
8 foregoing proceedings; that I thereafter caused my shorthand
9 writing to be reduced to typewriting, and the pages numbered
10 1 through 205 inclusive, constitute a full, true, and
11 correct record of said proceedings:

12 IN WITNESS WHEREOF, I have subscribed this
13 certificate at Sacramento, California, on this 6th day of
14 March, 2001.

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19 BALINDA DUNLAP, CSR NO. 10710, RPR, CRR

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